A TREATISE OF THE Antiquity, Authority, USES & JURISDICTION Of the Ancient Courts of LEET,

Or view of *Franck-Pledge*, and of Subordination of Government derived from the Institution of MOSES, the First Legislator: And the First Imitation of him in this ISLAND of GREAT BRITAIN by K. *Alfred*; and continued ever since.

Together with *Additions* and *Alterations* of the Modern *Laws* and *Statutes* inquirable at those Courts, untill these present Times.

With an Explication of the Oath of Allegiance, *& the Kings Office of* Protection *annexed.*

By ROBERT POWEL *Gent.*

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TO

The Right Honourable,
the *Knights, Citizens* and *Burgesses*
Assembled in the Commons House of

PARLIAMENT:

And in that Numerous Assembly to the
Worthy *SPEAKER*, His much Honoured,
IOHN SELDEN, ESQUIER, with the
rest of the Learned long ROBE.

THis Treatise *of the most Ancient Court* Leets (Right Honourable) *containes in it the severall Crimes and Offences there inquirable, as well by the* Common

Law *as by diverſe* Statutes, *whereof many of this great* Congregation *had a Vote and intereſt in the making.*

It hath bin the work of many interciſive houres, and had a whole winter-Age *under the over-ſight of a* Iudge, *famous in his time, ſometimes an Honourable* member *of former* Parliaments, *How it was entertained by him, and with what benediction it returned to the* Author *from him, is well knowne to a Gentleman yet living, his then* Amanuenſis. *Since it pleaſed his late* Majeſties *Attorney generall, upon a reference to him from his Sacred* Majeſty, *dated* December 1634. *to recommend the examination of this worke, and the Statutes therein cited to an able Counſellor,*

Sir *Edward Coke.*

Tho. Teſdall Eſquier.

tor, of Grayes-Inne, who after a deliberate perusall and consideration had of it, did at the end thereof Certifie his opinion in these words.

I have seriously perused this Tract concerning Court Leets, and finde it to bee compiled with much care and diligence; And I conceive generally well composed and usefull to bee published. 13. *July* 1636.

Not long after this the Decree of the Star-Chamber *intervening for limitation of the Presse upon some strict termes,*

This little Creature *had the happinesse to be reserued for these long lookt for times. The motive inducing the publishing of it is a three-fold engagement of the* Author.

1. De-

1. Debitum reipublicæ, *a debt due from him to the Common-wealth, for expiation of the many lost and mispent houres of pretious time.*

2. *It is* debitum professionis, *a debt of his calling or profession, wherein every man is but a* Steward, *and must render an accompt; Hee must not* reponere talentum in sudario, *but so order and improve it, that hee may be enabled to cast, if not a* Talent, *yet a* Mite *into the* Common Treasury.

3. * *It is* debitum promissionis in prælo, *a debt of* Promise *and that in the Presse. All legall promises, especially those which are publikely attested, are inviolably to be observed: Now the end of publishing is, is for the common good: For sithence the* Leet *is justly termed* schola insigniendi

* *In Vita* Aluredi.

niendi juvenes, *It is very necessary that the sonnes and servants of Farmers, Yeomen and others versed in rurall affaires, should bee disciplined in the Lawes, under the government whereof they live and have their protection. And for their better instruction, I have in the rehearsall of the severall Statutes declared the paines and penalties, for the benefit of persons who have not Statutes at large or abridgements.* Reverend Master Crompton, *in the Dedication of his* Iustice of Peace, *affirmeth that hee thought fit to set downe the penalties and punishments due to every offence mentioned in the charge contained in that booke, in pursuance of the Order and method prosecuted by the Honourable, Sir* Anthony Fitzharbert, *in his treatise of that Subject, and*

in imitation of the usage and custom of the Iustices of Assize in their Circuits, deeming it necessary to informe the people as well of the punishment, as of the offence. And if parvis fas sit componere magna, I have presumed to take my patterne thence, that offenders may know the proportion of their paine as well as the quality of their crime. And now, right Honourable, this Treatise, together with other annexed, the Author doth most submissively present unto this thrice Honourable Assembly, humbly imploring the vouchsafement of Your Honourable Licence and safe Conduct for those innocent Twinnes to passe cheerefully into the world; That they may be disposed and imployed to that end for which they were compiled as Your Honours shall

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thinke fit. The God *of all* Counsell *and* Consolation *be present and President in all your religious Counsells and Consultations, and multiply his blessings upon this whole body, as well in all your publike, as private affaires; For which the* Author *will never cease incessantly to pray.*

Rob. Powell.

The

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The

For the Etymologie of the word Lelt (Dugdale in his Warw
pag. 41 says he cannot well be satisfyed, except it proceed
from the Saxon word zelathian, id est, congregare,
which may well be: for in Kent the Divisions of the
Counthey are called Lathes, which with us are calle
Hundreds.

THE
Antiquity, Authority, Vſes and Iuriſdiction of Court Leets, or view of Franckpledge, &c.

The Preface or Introduction, touching the occaſion and originall of Lawes.

WHilſt man ſtood in the ſtate of Innocency, There was no ſinne, and ſo no need of any written or poſitive Law, no need of Oathes for the adminiſtation of Law; For in the firſt age & in a long time after the deluge, there was no oath heard of.

In the ſecond age of the world, As there was confuſion of languages; So there was of all other things; All things were in common: Noe diſtinctions of Dominions, Poſſeſſions, & Inheritances

Virgil. *Geo.* 1 by partitions, Lotts and boundaries,

We signare quidem, aut partiri limite Campum,
Fas erat.

Hence Confusion bred Contention, and might controlled right: *Nimrod* then began to be a mighty one in the earth, Hee was a mighty hunter before the *Lord*, and was the first Monarch, who usurped power without lawes.

From this confused generation God calleth *Abraham* and gives him this charge, *Get thee out of thy Countrey, and from thy kindred, and from thy fathers house unto a land that I will shew thee, And I will blesse thee, and make thy name great, And thou shalt be a blessing &c.: So Abraham departed, as the Lord had spoken unto him, And Lot went with him.*

Gen. cap. 12. *v.* 1. 2. 4.

They had not long dwelt together but their substance increased and the land was not able to beare them; As riches increased so the right of property, or *meum et tuum* began to be narrowly pryed into, and hath since begotten all civill differencies, and consequently all civill lawes for discussing and deciding of differencies betweene man and man.

There was civill dissention betweene the heards-men of *Abraham* and *Lot*, and certainely it was about their substance. To redresse this growing mischeife *Abraham* bethinkes himselfe of a partition. And to prevent a division of minde, descends to a division of meanes. And (though Vnkle unto, and elder than *Lot*) begins to stoope first in this wise.

Let there be no strife I pray thee betweene thee and mee, and betweene thy heards-men and my heards-

men, for we are brethren, is not the whole land before thee? Separate thy selfe I pray thee from mee, &c.

And *Abraham* gave *Lot* the benefit of election of the land, to take either the right hand or the left hand; which was an example of division of possessions and distinguishing right of property for future ages.

As *God* had promised to *Abraham, that His seed should be in nũber as the starres of Heaven*, so did his generations increase and multiply; With multiplications of families, Sinnes and Iniquities were also in aboundance multiplyed: All sorts of people both good and bad grew up together: *Force* and *Fraud* inlarged their dominions; *Esau* was a cunning hunter, a man of the field, And *Iacob* was a plaine man, dwelling in Tents. *Iacob* had *Ioseph* a good sonne, And so he had his *Simeon* & *Levi* who troubled him, *Gen.* 34. *instruments of cruelty in their habitations*, *Gen. ca.* 49. *Ioseph* had one *Reuben* to his brother, But all the rest envied, hated him, and conspired against him.

At length *Iacob* and *Ioseph* in fullnesse of yeares die. From the tribe of *Levi* *Moses* is raised, and preserved in an Arke of Bulrushes from the tirranny of *Pharaoh*, to be a Law-giver, a Propher, and a cheife Ruler amongst the children of *Israel*, *Prudentissimus Legislator*, *Iustissimus Princeps*, *ac Propheta maximus.*

In the meane time the *Isralites* doe grievously suffer under the tirannicall oppressions and impositions of *Pharaoh*; and *Moses* is sent with the assistance of *Aaron* to deliver them; After whose

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miraculous deliverance by the overthrow of *Pharaoh* and his hoſt in the red ſea, *Moſes* and the *Iſraelites* having ſung p..iſes unto *God*, & erected an *Altar* in memorial of their bleſſed deliverance, *Moſes* diſpoſeth himſelfe to a ſetled government of the people, *And hee ſate to judge, And the people ſtood by Moſes* from the morning to the evening.

The firſt *Inſtitution* and *Subordination* by *Moſes*.

IN this courſe of *Iudicature Moſes* was much incombred, and over-charged with variety, and multitude of cauſes; which *Iethro* his father in law obſerving, doth gently admoniſh him in this wiſe, *The thing that thou doſt doe, is not good*, Thou wilt ſurely weare away both thou, and this people that is with thee, thou art not able to performe it of thy ſelfe alone. And then doth Counſell him for the eaſe of himſelfe and the people to elect ſubordinate officers.

Exod. 18. 2. *Thou ſhalt provide out of all the people able men, Such as feare God, men of truth, hating covetouſneſſe, And place ſuch over them, to be rulers over thouſands, of hundreds, of fifties, of tens, And let them judge the people at all ſeaſons, &c.*

In purſuit of this grave advice, *Moſes* accordingly did chooſe able men out of all *Iſrael*, and made thē heads over the people, rulers over thouſands, rulers over hundreds, rulers over fifties, & rulers of tens, & they judged the people at all ſeaſons; the hard cauſes they brought unto *Moſes*; but every

ry ſmal matter they judged themſelves. Thus (*Moſes* upon conſultation with *God* having performed and put this holy Counſell in practice) His incomprehenſible *Deity* vouchſafed the honouring of *Moſes* with his owne preſence upon *Mount Sinai*, And therewith His immediate voice proclaimed the moral Law, Containing all the grounds of *Equity* and *Iuſtice*, and gave them unto him ingraven in two tables of ſtone.

The firſt promulgation of Lawes, and the beginning of Legall Oathes for adminiſtration of Iuſtice.

AS *Moſes* received them from *God*, ſo in diſcharge of his ſacred function, he faithfully injoyned them unto the people. And as falſhood and fraud increaſed, Soe for avoiding and diſcovery thereof, and for true execution of Iuſtice, As alſo to put an end to ſtrife and controverſie, The miniſtration of legall Oathes began to grow in uſe. And not long after the receiving of the *Decalogue* by that great *Prince* and *Prophet*. It was one of his firſt Lawes given in charge unto the people. Heb. 6. 16.

If a man deliver unto his neighbour an Aſſe, or an Oxe, or a Sheepe, or any beaſt to keepe, And it die, or be hurt, or be driven away no man ſeing it, Then ſhall an Oath of the Lord be betweene them both, that hee hath not put his hand to his neighbours goods, and the owner of it ſhall accept thereof, &c.

By this it is eviden-, that *Moſes* from *Gods* mouth,

mouth, and by inſpiration of his holy Spirit, was the firſt perſonall *Legiſlator* in the world, and the firſt diſtributer of Iuſtice by ſubordination of Rulers and Magiſtrates, and the onely *patterne* for all ſucceeding *Princes*; which moved *Euſebius* to ſay *A Deo igitur Lex originem habet, Et eam mortalium omnium primus Moſes Hebræis conſtituit, Quæ cæteris deinceps hominibus condendarum Legum haùd dubiò exemplar fuit.*

The firſt imitation of *Moſes* in this Kingdome by *King Alfred*.

THat *Moſes* was a *Patterne* and *Exemplar* of making lawes and managing of them by inferior Miniſters, in this our ancient and famous *Iſland of Great Britaine*, renowned in the conſtant ſucceſſion and preſervation of her lawes, notwithſtanding the permutation and change of goverment by the Conqueſt, and rule of ſeverall nations, may manifeſtly appeare by that which followes.

King Alfred who began to raigne in this *Iſland*, *Anno Chriſti*. 872. the beſt lettered *Prince* that was in thoſe times, began his lawes with *Loquutus eſt Dominus ad Moſem hos ſermones, dicens, Ego ſum Dominus Deus tuus, &c.* And ſo recites the 10. Commandements given by *Almighty God* upon *Mount Sinai*. And then proceeds with the moſt materiall lawes mentioned in the 21. 22, and 23, *Chap. of Exodus.* which hee thought to be moſt apt and competible for the government

government of his kingdome, closing it up with:

Hæc ea sunt jura, quæ verum omnium præpotens Deus ipse Mosi custodienda proposuit, &c.

And then concludes with, *Hus ego Alvredus Rex Sanctiones in unum collegi, atq; easdem literis mandavi, Quarum bonam certe partem Majores nostri religiosè coluerunt; Multa etiam mihi digna videntur, quæ à nobis hac etiam ætate pari religione observentur, Nonnulla tamen eorum ex consulto Patrum, partim antiquanda, partim renovanda curavimus, &c.*

I *King Alfred* have collected these lawes into one body and have caused them to be written, whereof truly a good part, our Ancestors did religiously regard or obey: And many of them doe seeme worthy unto mee, That they should be with the like religion in this age or time observed, yet some of them by the advice of our grave men (our Fathers) wee have taken care partly to antiquate, and partly to revive or renew. Which in the language of succeeding times, was as much, as if he had said, Some of them by the advice of our Parliament wee have thought good partly to repeale, and partly to continue.

After this, the good young *King* (doubtlesse *Non sine consulto Patrum*) doth proceed, and culles out and confirmes certaine lawes and sanctions of *King Ines*, *Offa* the *King* of the *Mercians*, and *Ethelbert* the first *King* that ever received Baptisme here in *England*.

The

The first division of this kingdome by *Alfred* into Counties, Hundreds and Tythings.

THis blessed *Prince* (the division of his kingdome being confounded by meanes of the then late distracted *Heptarchy*) having made league with *Guthrunus* the *Dane*, and thereby possessed himselfe of the entierty of the *Realme*, and being sole *Monarch* thereof, did (in imitation of *Iethro* his Counsell to *Moses*) subdivide and distribute the government of the land into severall partes; And did first reduce it into *Satrapias* wch we now cal shires or Counties, *Centurias* now called hundreds, *Decurias* now lalled tythings, which at that time, in the infancy of of this subordination, consisted only of ten men But in succeeding ages grew more populous, and are not confined in number of persons, though it still retaine the same appellation: Of those ten persons, proscribed to their decurie, or tythings, Every one was to be a *fidejussor* or pledge, one for another; And if any one received losse, the rest were to make recompence for it.

Hence it was that nine of them were called *ingenui fidejussores*, which we in the title of our Leets call *Franciplegii*: And the Tenth was called *Decurio*, which continues in the westerne parts by the name of tethingman, in other places called *vadem primarium et precipium*, in *Kent* called *Borsholder* (that is to say) a cheife pledge, in *Yorkshire* called *Tenteutale*.

The

The appointment of Officers and making Lawes for the better ordering of the Kingdome.

THis mirrour of Princes having thus ordered his Kingdome, did set over every Shire a *Senator* and a *Greve*, which the *Normans* afterwards called *Comes*, and *Vicecomes*, and our later ages, an Earle, and Sheriffe; Over every Century, an officer called a Constable, and every Decury, a chiefe pledge, or tethingman. And did decree, that every man of free condition (*liber homo.*) should bee of a certaine Hundred or Tything, out of which hee was not to remove without securitie.

After hee had thus ordained a law for the locall feeling of his Subjects, that they might bee knowne, and called to account by the certaintie of their abode upon all occasions of suspicion, or accusation for any crime or misdemeanour. Then he provided good and wholesome lawes, for the better avoiding of rapines, thefts, murthers, or any crimes whatsoever, as also for the securing of the persons and estates of his Subjects, and for the better rule and government of them in the place of their resiance: amongst which I finde one Law cited by that noble and ever memorable Antiquarie, *Quod si quis delicti alicujus insimularetur, statim ex centuria & decima exhiberet, qui eum vadarentur: Sin ejusmodi* *Cambd. Brit. fo. 57.*

vadem non reperiret, legum ſevritatem horreret; Si quis verò reus, ante vadationem, vel poſt transfugeret; Omnes ex Centuria, & decima, Regis mulctam incurrerent, If a man were accuſed of any offence, hee ſhould preſently out of the Hundred and tything tender ſuch as ſhould be pledges or baile for him, but if hee could not finde ſuch baile, hee ſhould then dread the ſeverity of the Law (which I conceive to be according to the moderne law, Impriſonment) But if any perſon accuſed, either before pledges, or after ſhould flye away, all the men and inhabitants of the tything and hundred ſhould incur the Kings mulct, that is, be amerced, to be *in miſericordiam Regis* at the Kings mercy.

The fruit and effect of this law is worth obſervation, what good redounded to the Common weale in thoſe times, For ſaith the Author, *Hoc commento pacem infudit provinciæ, ut per publicos aggeres, ubi ſemitæ per quadrivium finduntur, armillas aureas juberet ſuſpendi, Quæ viantium aviditatem rideret, dum non eſſet, qui eas abriperet*, By this deviſe he made ſuch peace in the whole Country, that he cauſed certaine golden bracelets to be hanged upon publike batches or hillocks at every croſſe way, which might, as it were, deride the aviditie of paſſengers, ſith hence there were none that durſt take them away.

It is no doubt, but this Law or Ordinance doth not only in part retaine a vigor and being at the common Law, but hath given light to many ſtatutes now in force of great conſequence.

As

As, to that, of the Statute of *Winton*, inquirable at Leets, by which it was enacted, That cries should be solemnly made in all Counties, Hundreds, Markets, Faires, and all other places where great resort of people is, so that none should excuse himselfe of ignorance, that from thence forth every country be so well kept, that immediately upon such robberies, and felonies committed, fresh suite be made from towne to towne, and from countrey to countrey, *&c.* And after that the felony or robberie be done, the countrey shall have no longer space than fortie dayes, within which it shall behoove them to agree for the robberie or offence, or else that they will answer for the bodies of the offenders. 13 Edward 1.

But al beit the Statute be generall and no mention made whether the robberie bee committed in the day time or in the night, the Hundred shall not be liable, but where the robberie or felonie is committed in the day time, yet if diverse doe commit a robberie, those of the Hundred ought to apprehend all the felons, for though they apprehend some of them, yet that will not suffice to excuse them; unlesse they apprehend all of them by that Statute of 13. *Edw.* 1. *Co. lib. 7 fo. 6. Ashpoles* Case.

But now it is qualified in that point, by the Statute of 27. *Eliz. cap.* 13. By which if any of the Inhabitants of any towne, village, or hamlet next to the place where the robberie was done, do in their pursuite apprehend any of the offenders, that shall excuse them, though all bee not taken.

The Statutes concerning the approvement of waſtes, woods, &c. and of her Lawes derived from the Law of *Alfred*, cited by M. *Cambden*.

FRom that Law of King *Alfred*, the Statute of *13. Edw. 1. cap. 46.* concerning approvements of Waſtes, Woods, and Paſtures, may ſeeme to borrow its light, whereby it is provided, that if any having right to approve, do levie a Dike or an Hedge, and ſome by night, or at any other ſeaſon, when they ſuppoſe not to be eſpied, doe overthrow the Hedge or Dike, and men of the townes neere, will not indict ſuch as be guiltie of the fact, The townes neere adjoyning ſhall bee diſtrained to levie the Dike or Hedge at their owne coſts, and to yeeld damages.

At the Common Law, if one be ſlaine in any towne in the day time, ſo long as it is plaine day light, and the man-killer doth eſcape, the town where the Felonie was committed, ſhall bee amerced for it, *Dum quis felonicè occiſus fuit per diem, niſi felo captus fuit, tota villata illa oneretur.*

This I thought pertinent to my preſent diſcourſe, to parallell that ancient Law of *Omnes centuria & decima, Regis multam incurrerent*, with our latter Lawes, whereby townſhips are onerable upon the eſcape, or not apprehending of offenders in certaine caſes.

Be-

Besides that good and profitable Law, amongst many others, that gracious Prince did further decree, that the *Decurio* or Tythingman might judge of small matters, and the *Centurio* or Constable of greater matters, and at the frequent meetings in every *Satrapie*, or Shire (now called Countie Courts) the Senator or Greve was to heare and determine matters, of greatest difficultie and moment.

King *Edward sen.* succeeded who made a law *De diebus cogendi populi*, that every Greve & *Præpositus quisque*, should every moneth call the people together, doe every man right, and decide all controversies, which confirmed the use of the Countie Court. *Edw. sen. An. 900. Lamb. fo. 51.*

King *Edgar* made a law *De Comitiis, Centuria Comitiis quilibet interesto*, That is to say, let every man be present at the Leets or meetings of Hundreds, but out of every shire, let there be a more famous meeting twice a yeare, *Celeberrimus autem bis quotannis Conventus agitor*, and this is now the Sheriffes turne. *Edgar. Anno 599.*

This King did farther decree, that each person should finde pledges who might bring him forth to render every man his owne. *Quisque fidejussores, qui eum jus suum cuique tribuere, quam paratissimum præsent adhibeto.* *Lamb. fo. 80.*

The

The manner of proceeding by Juries in those subordinate Courts of Counties, Hundreds, &c.

NOw the manner of proceeding at that time in those meetings, called *Centuriæ Comitiis, & Satrapiæ Comitiis*, (now called Court Leets and Sheriffes turnes) doth appeare by a Law practised in those dayes, and after revived by King *Etheldred*, who lived *Anno* 979. which thus insueth,

Lamb. Explic. verbo.

In singulis Centuriis Comitia Sunto, atque liberæ conditionis viri duodeni ætate superiores, unâ cum Præposito sacra tenentes, juranto se non innocentem damnaturos, sontémve absolvturos.

Let there be meetings in every Hundred, and let twelve freemen of the better sort, together with the chiefe pledge, sweare upon the holy Evangelist, not to condemn the innocent, nor to acquit the nocent, that is, to doe every man right.

I will passe over many good lawes before the Conquest, let us cast our eyes a little neerer, and see how the Counsell of *Iethro* to *Moses* hath beene since pursued.

Bracton a learned and famous Common Lawyer, who wrote in the time of *Hen.* 3. from the Conquest, writes of the practice and duties of Kings,

Bract. l. 2. cap. 2.

Rex & non alius debet judicare, &c. The King and none elsse ought to judge, if he alone be able to

to doe it, sithence he is bound thereto by vertue of his oath, and therefore the King ought to exercise the power of law as Gods Vicegerent, and minister on earth,

Sin autem Dominus Rex ad singulas causas determinandas non sufficiat, &c.

But if the King be not able to determine all causes, that his labour may be the easier, *in plures personas partito onere, eligere debet de regno suo viros sapientes, & timentes Deum, in quibus sit veritas eloquiorum & qui oderunt avaritiam, quæ inducit cupiditatem: Et ex illis constituere justiciarios, vicecomites & alios ministros & ballivos suos, ad quos referantur tam quæstiones super dubiis, quam querimoniæ super injuriis, &c.*

He ought to choose out of his Kingdome wise men fearing God and hating covetousnesse, and out of them to appoint Justices, Sheriffes and other Ministers to decide questions of doubt, and to redresse injuries, *&c.*

All subordinate Justice derived from the King and Crowne.

IN a cause of Replevin upon a distresse for an Amerciament in a Leet, *Fineux* then chiefe Justice in his grave and learned argument affirmes, That at the first, the administration of justice was in one hand, and in the Crowne, and then afterwards by reason of the multitude of people, the administration of justice was divided into Counties, and the power was committed 12 *Hen* 7. 18

ted to a deputie in every Countie, that is to say a Sheriffe, who was Bayliffe and Deputie to the King, and was assigned for conservation of the peace, and to punish offenders, and to defend the Realme upon invasion of enemies, to bee attendant upon the King in times of warre, and to cause all his people within his Countie to goe with him for defence of his land, and for the better governement of the Countie, and correction of offenders. There were two Courts assigned to him (*viz.*) the Countie Court (held every moneth) and the Sheriffes turne, held twice every yeare, by which two Courts, the whole Countie was governed: the Countie Court was for one man to have remedie against another, for any thing betweene them under 40. shillings, And the Sheriffes turne; unto which every man within the Countie of a certain age, should come, and were compelled to come, that they might not be ignorant of the things there published (or given in charge) whereby they were to be governed; and this was called Suite Reall, by reason of their allegiance; unto which they were sworne to be true and faithfull to the King, *&c.* Afterwards it seemed to be too great a thing for the Sheriffe to performe all in his owne person, whereupon Hundreds were ordained, and divided out of the Counties, and in every Hundred was appointed a Conservator of the peace, called a Constable; and after, Boroughs were made and ordained, and within every of them a petie Constable, and in some places a Bo-

Boroughead according to the diverſitie of the language, for that this land had been inhabited by perſons of divers Nations, as *Britanes*, *Saxons*, *Danes*, and *Normans*, So that, the diverſitie of termes and appellations came by the diverſitie of Languages, That the Hundreds and Boroughes did reſort unto the Tournes, by reaſon of their allegiance, And the Conſtables, and pettie Conſtables, did there preſent the defaults of offenders, but afterwards upon conſideration had of the great trouble, which the people ſuſtained in travelling to the Sheriffs Tourn, *Leets* or *View* of *Franckpledge* were granted unto Lords of Manours, within certaine precincts, to reforme all manner of defaults there.

By all which it is plaine, that *Leets* had their derivation both in nature and power out of the Sheriffes Tourne, and were purchaſed for the eaſe of the people by divers Lords; And in diverſe places, there is a dutie or ſumme of money payable to the Lord of the *Leet*, by cuſtome, in regard he purchaſed the ſame, for the eaſe of the reſiants and inhabitants, to free them from their attendance at the Sheriffes Tourne, and alſo in regard the Lord of the *Leet* was at every comming of the Iuſtices in *Eyre* at his own coſts to claime his libertie, which dutie is ſometimes called *Capitagium*, ſometimes *Certum Letæ*, and ſo by other names according to the Cuſtome of ſeverall places: So that now by the example of *Moſes* the *patterne and preſident of all Princes and Iudges*, the particular imitation of

Bullens Caſe, *Co. li. 7. fo. 78.*

K. Alfred, and by the practice of times, ever ſince, it is moſt evident that the *Iuſtice* of a kingdome cannot be circumſcribed within the compaſſe of a Crown, but muſt receive execution by ſubordinate officers & miniſters, & conſequently ther have been and muſt be ſubordinate courts of *Iudicature*, and *Iuſtice*, for the eaſe both of Soveraign & ſubject, amongſt wch, the *leet* or *view* of *Fanckpledge* hath been and is of moſt ſpecial uſe.

The moſt principall uſes of this Court, doe ſtand upon theſe three points.

1. To take view of all *Franckpledges* or Freemen, and by inquiſition or examination to diſcover, whether every perſon of the age of 12. years and upwards have a free pledg, or *fidejuſſor*, that they ſhall keep the Kings peace, which, with our Anceſtors was in great uſe and eſteem, but now by deſuetude of time is utterly antiquated, and only care taken by preſentments of Iurors and Officers upon their oathes, to find out and puniſh ſeverall delicts and offences perpetrated within the view and precincts of the *Leet*, proper for the juriſdiction of that Court.

2 To elect and ſwear all officers and miniſters of Iuſtice, who are to attend the ſervice of that meeting, as *Conſtables Tethingmen*, and ſuch others, wherin the Steward muſt be very circumſpect and careful of the *idoniety* of them, that they be perſons of *honeſty* to execute their office truly without malice, affection, or partiality. 2. *Science*, to know what belongs to their place, and what they ought only to do. 3. *Ability*, aſwel in eſtate of body

body that they may diligently attend & execute their office upon any occaſion, and not be negligent or remiſſe, either for impotency of body, or indigence in eſtate.

3. The third and principal uſe, which is indeed now moſt in uſe, is to take all *Suit royall*, that is, every perſon born within the kings dominions, is a *leige ſubject*, and oweth naturall *legiance*, and all male perſons of 12. years old, ought to take an oath for the demonſtration of their naturall *legiance*, which is called *legall*, becauſe the municipal laws have preſcribed the order and form of it to be done at the *leets* and *tourns*, and this natural *legiance* is abſolute, pure & indefinite, & is originally due by nature & birthright, & is cal'd *alta ligeantia*, & he that oweth this is cald *ſubditus natus*.

The oath is deſcribed by *Britton c. 29. titulo*, who wrote in the firſt yeare of *Edw* 1. the effect whereof is,

YOu ſhall ſwear, that from this day forward you ſhall be true and faithfull to our Soveraign Lord the King and his heires, and truth and faith ſhall bear of life, and member, and terrene honour, And you ſhall neither know, nor heare of any ill or dammage intended unto him, that you ſhall not defend; So help you God.

If antiquitie do make things more venerable, as moſt commonly it doth, this oath of natural *legiance* at the *tourn* and *leet* can plead as large preſcription of its ancient and conſtant uſage as any one thing in this nation, for it was firſt inſtituted by K. *Arthur*, at which time the *Leet* was called *Folkmote*, *viz.* a meeting of the people, and this appellation is retained in *London* to this day.

Lamb. fo. 135, 136.

Amongst the Lawes of King *Edward* the second before the Conquest, it it thus expresst. *Omnes Principes & Comites proceres, milites & lib. homines debent jurare, &c. in Folkmote, & similiter omnes proceres regni, milites & lib. homines universi totius regni Britanniæ facere debent in pleno Folkmote fidelitatem Domino Regi. &c. Hanc Legem invenit Arthurus, qui quondam fuit inclytissimus Rex Britonum, &c. Hujus legis authoritate expulit Arthurus Rex Saracenos & inimicos a regno, &c.*

Three things considerable in the keeping of Tournes and Leetes, 1. Time, 2. Place, 3. Persons.

THus farre you see the Antiquitie of this Court, and the ancient and naturall priviledges incident unto that. There be three things or circumstances, considerable in the keeping of it, 1. *Time*, 2. *Place*, 3. *Persons*. In ancient time the keeping of it was arbitrary, at the pleasure of the Lord, untill by the great Charter it was restrained to be kept twice a yeare.

Mag. Chart. ca. 35.

Non aliquis Vicecomes vel ballivus suus faciat turnum suum per hundredum, nisi bis in anno: Et non nisi in loco debito et consueto, viz. semel post paschа et iterum post festum sancti Michaelis, et visus de franci plegio tunc fiat ad illum terminum Sancti Michaelis sine occasione. Fiat autem visus de

de franciplegio sic, viz. quod pax nostra teneatur, et quod tithringa teneatur integra sicut esse consuevit, &c.

Notwithstanding which restraint, divers Sheriffes did afterwards make their Tournes oftentimes in Lent, when men ought to intend devotion and other workes of charitie for remedie of their soules, and sometimes after the gule of Harvest, when every man almost was busied about the cutting and carrying of his Corne, whereby the people were much grieved and disquieted. King *Edward* the third, upon the grievious complaint of his Commons, desiring the quietnesse of his people, did ordain and stablish, that every Sheriffe from thenceforth should make his Tourne yearely, one time within the moneth after *Easter*, and another time within the moneth after Saint *Michael*, and if they held them in other manner, that then they should lose their Tourne for the time.

Plowd. fo. 316. b. The Calends of *Aug.* or the feast of *S. Peter ad vincula.* 31 *Edward* 3. *ca.* 15.

As it was restrained in time, So it was to place and persons, it must bee kept within the precinct and libertie *in loco debito et consueto*, If it be holden otherwise, it is *coram non judice*; And the matter of cognizance must bee within the view. For 41. *Edward* 3. *fo.* 31. *Kyrton* cites a Case, wherein the Lord avowed the taking of an amerciament for the stopping of an Highway, which *in rei veritate* was out of the Iurisdiction of the view, and therefore the Plaintiffe recovered dammages.

2 Place.

If

If the Sheriffe ſhall keepe his Tourne, *in loco in conſueto*, he may be indicted and puniſhed for it. *Dyer* 151. As for the perſons. Although in the time of King *Arthur, Omnes Proceres, Comites, Barones, &c.* were to ſweare and doe their ſuit reall, *in pleno Folkmote*, yet by the Statute of *Marlebridge*, it is thus provided by way of reſtraint, *De turnie vicec: proviſum eſt, quod neceſſe non habeant ibi venire Archiep ſcopi, Epiſcopi, Abbates, Priores, Comites, Barones, nec aliqui viri religioſi, ſeu mulieres, niſi eorum præſentia ob aliam cauſam ſpecialiter exigatur, &c.* So by this Statute, All clergie and religious men, All Earles, Barons and all women are excepted and exempted, and by the law al other people under the age of 12. years, their preſence being not neceſſary there, in regard they are never ſworne upon any inqueſts; But all freeholders, terrtennants and other perſons inhabiting within the precincts of the *Leet*, ought to appeare and do their ſuit, and tennants in ancient demeſne, are not bound to come to the Sheriffs *Tourne*, and conſequently not to any Leet.

3 Perſons.

Marl ca. 11.

If any of the ſaid perſons mentioned to be exempted, or if any in wardſhip to the King ſhould be diſtreyned to do their ſuite, the law hath provided ſeverall forms of writs, *De exoneratione ſectæ*, for diſcharge of every of them.

Fitzh. na. Bre. f. 158. 161.

Whatſoever the law preſcribes or reſtreines in the Sheriffes Tourne, the ſame is binding in a *Court Leet*, and it was agreed for law that the power of a Sheriffein the Towne, and a Steward in the

Broo. Leet, 26 22 *Edw.* 4 23

thē *Leet* were all one: onely the *Leet* have power to enquire and take preſentments of nuſances and offences aſwell in the Courts after the feaſt of *Eaſter*, as after the feaſt of S. *Michael*, whereas the Sheriffe in his Tourne after *Eaſter* ought not to enquire of any action popular, *&c.* but only to take ſuite of the reſiants and other ſuitors, and to take the view, *quod trithinga teneantur, ſcilicet.* Fitzh. Leet 11.

That all above the age of 12. years come, and appeare there to doe their ſuite, and to take the oath of *Legiance*, if they were not ſworn before. For after a perſon is once *juratus in decennaria* or *ad fidem & legeanciam Domini Regis*, hee is not compellable to be ſworne againe.

As a *Leet* is derived by grant from the crown, ſo, by divers cauſes that may be ſeized into the Kings hands, and returne to the Crowne againe, and if for any juſt cauſe it bee forfeited and ſeiſed, then muſt the reſiants and ſuitors againe attend and doe their ſuite at the Sheriffes Tourne, and what is omitted in the Tourne might be preſented in the Kings bench, for in the caſe of *Iohn Charneles*, *Edward* the third, *Belknappe* ſets forth the law to be, that if a thing were not preſented within the Lords view, then it ſhould bee preſented in the Sheriffes Tourne, and for default there, it ſhould bee preſented in the Kings Bench when the King came into the countrie, by which it plainely appeares as before is expreſſed; that the Iuſtice of the Kingdome was at firſt wholly Forfeiture of a Leet.

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wholly in the hands of the King and immediately derived from his person to Subalterne Officers.

To answer one Objection for the time, *that all Leets are not kept strictly* infra mensem *after* Easter *and* Michaelmas.

WHere there are ancient Customary Courts of Tenants in ancient *demesne*, or such like, that were ever exempted from the Sheriffes Tourne, and the Lords of such lands had their owne Tournes, that of *Easter* being called *Turnus de Hockday*, and that of *Michaelmas*, *Turnus Sancti Martini*, as in the Bishoprick of *Winton* and other places, those Courts are left to their Arbitrary keeping, either before or after the moneth, or at other set times, according to their ancient respective Customes, and not restrained by any Statute.

Britton the tenour of whose learned worke runneth in the Kings name, *Edward* 1. as if it had beene penned by himselfe, answerable to *Iustinians Institutes*, doth there in the first salutation of the Kings subjects, with *Edwardus Dei gratia*, &c. set forth, That because his peace could not well have its being without Law, he caused the Lawes then used in this Realme to be put in writing, and did thereby command a strict observation thereof in all things, Saving a power

er to repeale, alter, and amend, all ſuch things as ſhould ſeeme meet unto him, with the advice of his Earls, Barons, and others of his Councel, and ſaving all cuſtomes unto thoſe, as by preſcription, uſed the ſame time out of minde, ſo as thoſe uſages were not diſcordant unto right.

At that time being 5. *Edward* 1. thoſe ancient cuſtomarie Tournes, within many particular Lordſhips were in uſe, not ſubject to the Sheriffes Tournes, and ſo not within the meaning of the Statute of 31. *Edward* 3. *cap.* 15. which being made long after, extendeth not to any Leets, but ſuch as were and are derived out of the Sheriffes Tourne, and ſo it was admitted by the Iudges, that the Leet of another Lord was not within the Statute, but the Leet of the Tourne. *Brooke* Leet 21. 6 *Hen.* 7. 2. And ſo by neceſſarie conſequence, All Leetes derived out of the Sheriffes Tourne, and no other.

In what Caſes, and by what meanes a Leete or Franchiſe may be ſeiſed or forfeited, or the Lord damnified.

IN all grants of any Liberties, or Franchiſes there are commonly two conditions, one in *facto*, which is alwaies *explicite*, as to pay mony, or to do, or not to do any other act, *&c.* 2. Condition *in lege*, which is *tacite*, and *implicite* created by law.

There are two sorts of conditions in Law, by the rule of the common Law, 1. The one which is founded upon a *Confidence* and *skill*, 2. The other without either of these.

There be 3. causes arising from the violation of *trust* or confidence, and want or *privation* of *skill*, which induce a *forfeiture* aswell of offices, as of *franchises* (that is to say) 1. *Abuser*, 2. *Non user*, 3. *Refuser*, All which I will but summarily touch, and they may all three proceed, 1. Either from *ignorance*, 2. Or from *wilfulnes*.

Abuser.

It is said by M. *Kitchin*, that Court Leets are to be forfeited *in quo warranto*, which are kept by ignorant Stewards. Some make a doubt of it. In Offices which concerne the meere and only private profit of the Lord without dammage to the weale publike, the ignorance of a Steward can be no cause of forfeiture, but in Offices concerning administration of justice, *pro bono publico*, as a Leet, there is no doubt, but the *Franchise* may be forfeited.

Crompt. Iur. fo. 145. The Steward of the libertie of the *Abbot* of *Crowland*, by colour of his libertie of *infangtheefe* adjudged a man to death, and for this the liberty was seized in the Kings hands, *Et nulla pœna Senescallo*, For *Qui quid Iusticia fecerit de Recordo ignoranter & pro defect. scientiæ, non erit pro eo punitus.* 2 *Ric.* 3. *fo.* 10.

A Lord of a Leet was fined forty shillings, for

for that his Steward took an indict ment *de morte de home*, in his Leet, which did not belong unto it, and ſo incroached upon the King. And alſo took an indictment of a robberie done out of his franchiſe in another Countie. *Brook in finibus pur contempt.* 49. cites 41. aſſ. p. 30.

If the Lord do hold his Leet at any time after the moneth from *Eaſter* and *Michaelmas*, it is void by the Statute of 31. *E.* 3. 15. and all preſentments void, and the Lord ſhall loſe his profits. *Brook*, Leet 17. and 21.

Non uſer.

Aſſiſe of Bread and Beere, and pillorie, and tumbrell are appendant to the view of *Franck-pledge*, where a man hath them by a grant from the King, if he doth not keepe pillory and tumbrell hee loſeth his office, *Brooke*, *Quo war.* 8.

Refuſer.

The Abbot of S. *Albon* having the grant of a Gaol, dereyned the priſoners, for that he would not bee at the charge to ſue out a Commiſſion for their deliverie, the King ſeiſed the Franchiſe into his hands, 8. *Hen.* 4. 18.

A direction for Lords in chooſing of their Stewards.

SIthence the juriſdiction of this ancient Court is lyable upon juſt cauſe of forfeiture, and ſeiſure into the Kings hands, it is neceſſarie that Lords of liberties, as well for prevention of their owne inconvenience, as for the better governement of the Countrie by due execution of the Law, ſhould ſelect, chooſe and appoint out of men treyned up in the ſtudies of the provinciall Lawes of this kingdome, ſuch, as muſt have the foure properties of *Iethro* his counſell, Able men, ſuch as muſt bee *viri potentes*, not in ſtrength of body, but in courage of minde. 2. They muſt be *viri timentes Deum*, that feare God and not the faces of men; he that hath this vertue wants none, and he that wants this is open to injuſtice, oppreſſion, malice, and all other enormious impieties. 3. They muſt be *Amantes veritatem*, it is S. *Pauls* counſell, *Epheſ.* 6. 14. *Stand therefore, and your loines gird about with veritie, and having on the breſtplate of righteouſneſſe, &c.*

4. They muſt be *abhorrentes avaritiam*, the roote from whence all evills grow, 1 *Tim.* 6. 10 That which (as *Bracton* ſaith) doth *inducere cupiditatem*, when *Samuel* his ſonnes were *Iudges over Iſrael*, it was a brand upon them, *They walked not in his waies, but turned aſide after lucre, and tooke rewards, and perverted judgement*, 1 *Sam.* 8. 3.

The

The properties and qũalities which a Steward ought to have.

Leta deſcribes the office of a Steward, and giveth counſell unto Lords of Manours, and liberties, to provide (or elect) their Stewards in theſe words, *Prouideat ſibi Dominus de ſeneſcallo circumſpecto, & fideli, viro prouido, & diſcreto & gratioſo, humili, pudico, pacifico & modeſto, qui in legibus conſuetudinibuſque prouinciæ & officio ſeneſcaleiæ ſe cognoſcat, & jura Domini ſui in omnibus teneri affectet, quique ſubballivos Domini in ſuis erroribus & ambiguis ſciat inſtruere & docere, quique egenis parcere, & qui nec prece vel pretio velit a juſtitiæ tramite deviare & perverſe judicare. Cujus Officium eſt Curias tenere Manteriorum & de ſubſtractationibus conſuetudinum, ſervitiorum, reddituum, Sectarum ad curiam, mercata, molendina Domini, & adviſus franciplegiorum aliariumque libertatum Domino pertinentium inquirat, &c.*

By which Deſcription it is to bee obſerved, that a Steward ought to have a double qualification, 1 *In Moralibus.* 2 *In judicialibus*, whereby he muſt be guided as well in the keeping of Court Barons for the profit of his Lord, as for the honour of him, in the government of Leets for the good of the Common weale.

1 *In Moralibus*, A Steward muſt bee qualified with theſe properties before mentioned, *circumſpection, fidelitie, providence, diſcretion, humilitie, peace,*

peace, and modeſtie, which may be reduced into theſe two generalls, *S. veritie*, and *Induſtry*, the one proceeding from the heart, the other from the hand; his diligence or induſtry muſt be tempered, with 1 Circumſpection, 2 Providence, 3 Diſcretion, otherwiſe it may incurre the perill of *temeritie* and precipitance, which commonly prove fatall in all actions.

Col. 5. Epiſt. *Canis feſtinans cæcos parit catulos.*

His *veritie* muſt be attended with *fidelitie, humilitie, peace*, and *modeſtie*, *Veritas ſecum ducit Comites ſimplicitatem, unitatem, & pacem tandem.*

2. *Iudicialibus*; and therein he muſt be attended with foure properties: 1 *Scientia*, hee muſt know himſelf (or be expert) in the Lawes and cuſtomes of his Countrey, and have ability to inſtruct or direct the Bailiffes and other miniſters in dubious things, wherein they may erre.

2. *Miſericordia*, he muſt ſpare the poore, not rack poore tennants, nor grinde their faces, hee muſt not bee outragious in impoſing exceſſive fines in the Leets, but (as Iudges in other Courts are, or ought to be) moderate and diſcreet, *ſecundum quantitatem delicti*, not bevond the demenſion of the offence, for exceſſive amerciaments are againſt the law, *Exceſſus in re qualibet jure communi reprobatur*, *Coo. li.* 11. *fo.* 42.

Mercy and truth muſt meet together, righteouſneſſe and peace muſt kiſſe each other, *Pſal.* 85. 10.

3 *Iuſtitia*: the Prince of vertues, the faithfull Companion of this life, without which no humane ſocietie can ſubſiſt, *Iuſtice* knowes no father,

ther, mother, nor brother; *Persona non accipit sed Deum imitatur*, A Steward must put on this Armour. And must neither be drawne by price nor prayer, neither by lucratorie corruption, nor any sinister affection, to deviate and wander out of the high-way of *Iustice*, and Iudge perversly. *Qui nec* (as *Bracton* advise h) *ad dextram nec ad sinistram, vel propter prosperitatem terrenam, vel adversitatis metum a tramite Iustitiæ declinent.*

4 *Fortitudine animi.* He must not be daunted neither by threats nor feare, nor overswayed by the Landlord himselfe, either in the electing of officers (a thing too frequent) or in any other thing that may concerne the due administration of his office.

A Steward being thus indowed, adorned, and qualified with those morall and judiciall vertues, and properties is the fitter to undergoe the burden of that authoritie, wherewith hee is intrusted by the Lawes of the Realme. From his qualities I will passe unto his authoritie.

The Authority of a Steward in Leets.

A *Leet* is a Court of Record, The Steward is Iudge, and hath a double power, 1. of election of officers, 2. of Coertion or punition of offenders; In the latter, *viz.* punition, there is a double act to be respected, 1. *Actus Curiæ*, 2. *Actus Patriæ*, the act of the Court, and the Act of the Iury or Countrey.

These

Theſe two doe meete with two ſorts of offences or miſdemeanors by two ſorts of remedies, 1 Fyne, 2 Amerciament, the one ſort of offences are *Extra Curiam*, the other *in Curia*.

co.li. 8 fo. 38. Grisleys Case.

1 *Extra Curiam*, of thoſe which are extrinſecall offences, The Iurors and officers ſworne to preſent (who ought alſo to have the foure properties of *Iethros* counſell) have peculiar cognizance, and therefore power to preſent them, and to aſſeſſe amerciaments for them.

2 *In Curia*, being the ſecond ſort, which are offences, either in omitting or neglecting a dutie injoyned, and to be performed by Conſtables, Bayliffes, Jurors, or miniſters of Iuſtice, or in committing ſome contempt and diſorder in the face of the Court by any officer or ſuitor; The Steward hath cognizance, and may puniſh it by fine, without inquirie by the Countrie.

1 As if a Bayliffe refuſe in Court to execute his office, 7 *H.* 6. 12 *b.*

2 Or if a Tethingman refuſe to make a preſentment in the Leete, 10. *H.* 6. 7.

3 Or if any of the Iury in a Leet depart without giving his verdict.

4 Or if any ſuitor or other perſon doth miſdemeane himſelfe either in word or deed.

5 Or if any inqueſt refuſe to preſent in a Leet ſuch defaults as they have information of, 10 *Ed.* 3. *fo.* 4.

The

The Steward hath power in theſe and the like Caſes, to impoſe a reaſonable Fyne, and ſuch fyne is not affereable nor traverſable, 10. *H.* 6. *fo.* 8.

6 He hath power by ſeverall Statutes in ſeverall caſes, to impannell a ſecond Iury, to inquire of the defaults and concealements of the firſt jurie, and to fine them for their offence.

7 A Steward may by paroll command a Bailiffe to make diſtreſſe. 16 *H.* 7 *fo.* 14.

8 In every Leete, the Lord of the libertie hath but the amerciaments, the Court is the Kings, and therefore the Steward doth repreſent the perſon of the King, 41 *Edward* 3 *fo.* 31.

9 A Steward for default of reſiants may compell a Stranger comming within the view to be of the inqueſt.

The remedies for recoverie of Fynes and Amerciaments in a Leete.

AS in a Leete there is a twofold remedie according to the nature and qualitie of the offences, *viz.* 1 Fine, 2 Amerciament: So there is in the Law, a twofold way or meane reſpectively to recover and obtaine that remedie for the benefit of the Lord of the libertie.

1 Either by action of debt againſt the offenders fined by the Steward, or pained and amerced by the Iurie.

Bro. Leet 7. 2 Or by diſtreſſe of his or their goods or cattell in ſome caſes upon their land, though the goods of another man, in other caſes by diſtreining the offenders proper goods in any place within the precincts of the Leete.

If a paine be impoſed in a Leet upon any perſon for redreſſing or removing of a nuſance by a day, *ſub pœna* 10. *lib.* And the *non fe ſaunce* thereof be afterwards preſented, and the paine thereby becomes forfeited, this is a good preſentment and the paine ſhall not be otherwiſe aſſered, and the Lord ſhall clearly have an action of debt, 23 *H.* 8. And the reaſon why ſuch a paine is not aſſerable, is, For that the word (*aſſerre*) is asmuch as to ſay, to taxe, or to aſſeſſe, *ponere in certitudinem*, or *taxare*, and a paine for not doing, or not removing of a thing by a day, is, upon a preſentment of a *non fezance* by a Iury, an immediate taxation and a certitude of aſſeſſment by the Countrie, and therefore needs not further or otherwiſe *poni in certitudinem.*

In the caſe of aſſeſſment of a fyne by a Stewards upon a tethingman, who would not preſent at a Leet, The Lord may bring an action of debt, and if the Defendant tender the wager of Law, it was *optima opinio* that a wager of law did not lye in that caſe, for that the Leet was a court of Record, 10. *H.* 6. 7.

Bro Leet 36.

Co. li. 11. *fo.* 42. As in theſe and other paines and fynes of like nature in a Leet an action of debt doth lye, ſo alſo for them, and for all amerciaments in a Leet, diſtreſſe is incident of common right, that is, by

by the Common Law a Lord may deſtreyne the goods of the delinquent.

In *Griſlies* caſe, Trin. 30. *Eliz.* where doubt was made, whether a Lord of a libertie might diſtreyne of common right, for a fyne impoſed in a Leete by a Steward for contempts and miſdemeanors: It was reſolved, that if for leſſer things, *s.* for amerciaments of offences, *extra curiam*, diſtreſſe was incident of common right, by an argument *a fortiori*, in a caſe of Fynes impoſed for offences, committed in the ſame court diſtreſſe ſhall be incident, For, *Co. l. 8. fo. 38.*

Quod licitum eſt pro minore, & pro majore licitum eſt, And nothing is more naturall to be puniſhed by a Court, than offences committed in the ſame Court. And it were a hard thing to drive a Lord to his action of debt for every pettie fyne or paine, and in caſe the Lord doe diſtreine, hee may ſell the diſtreſſe, or put the ſame in pound at his pleaſure. For the place of diſtreſſe whether upon the offenders lands within the view, or upon his goods in any place within the precinct of the Leet may ariſe a queſtion, which was reſolved, 2 *Hen.* 4. 24. *Bro. Leet.* 28. That for amerciaments in a *Leet* or Hundred, a man may diſtreyne the beaſts of the offenders in any place within the precinct of the *Leet* or Hundred, and a *fortiori* (as is before) for fines and pains in a *Leet*.

The Lord may diſtreyne in the high-way for an amerciament in the Leet, 34. *Ed.* 2. 19. *Edw.* 2.

Or the goods of the offender in the custodie of another man, 47 *Ed.* 3 *fo.* 12. *Krenebyes* case, And the reason for that the offence doth arise upon the person of the offender, and ought to be estreated upon his person, and not upon the issues of his lands, 41 *Ed.* 3. 26.

In some cases the distresse may be of another mans goods upon the lands of the *amercee*, As if a man do hold lands of a Leet, by the service of Cryer of the Court, or the like, and is amercied for neglecting of his service, A Lord may distreyne the beasts of any other upon the land so holden, 47 *Edward* 3 *folio* 13. 12 *Henry* 7. 15. And the reason for that the offence doth arise *ratione tenuræ* or *soli*, 41 *Edward* 3. 26.

Certaine Cautions in the taking of Distresses.

A Lord cannot distreyn for amerciament in a Leet in any lands seised in the Kings hands for the Kings debt, for that the place is priviledged, and the right of distresse suspended for that time, for as the King cannot bee amerced, so by consequence his lands are out of the Iurisdiction of a Leet, and the distresse tortious, and so was the opinion of *Finchden* in the Case of *Sudbury* Bishop of London upon a Replevin *inter Norwiche & Manley*, 47 *Edward* 3. 13.

Bro. Leet. 8.

He cannot distreine the Horse of a stranger in the Stable or osterie of the partie amerced, nor the

the garment of another in a Taylors ſhop, where the Taylor is amercied, and ſo was the opinion of *Keble*, 10 *Henry* 7. 21.

If upon a diſtreſſe taken the amerciament, fyne, or other duetie bee tendred, and ſatisfaction offered, it ought to be accepted, and in caſe it be refuſed, and the diſtreynee put to a Replevin, the Lord ſhall not have retourne, For a diſtreſſe is but a gage or pledge for a duetie, which being offered, the Lord ought to deliver the gage. *Ero. Diſtreſſe* 8.

A Lord may not diſtreyne a milſtone, parcell of a mill, nor doores, nor windowes, nor any thing that is fixt unto, or parcell of a freehold, 14 *Henry* 8. 25.

The diſtreſſe ought not to be exceſſive, for exceſſive diſtreſſe is forbidden by the common law, 41 *Edward* 3 *folio* 26. As for the amerciament of two ſhillings, or ſuch like, to take two or three Horſes, were outragious and exceſſive.

The laſt act or period of proceedings in a Court Leete is afferment.

AFferement is as much as *ponere in certitudinem ſeu taxare*, to aſſeſſe or taxe, derived from the French word; The Subject of this Act is called amerciament, in latine *miſericordia*: and it is deſcribed by an ancient writer, *Glanvill lib. 9, cap.* 11, in this wiſe, *Eſt autem miſericordia*

dia Domini Regis quâ quis per juramentum legalium hominum de vicineto, eatenus amerciandus est, ne aliquid de suo honorabili contenemento amittat. And by the Statutes of *Magna Charta, cap.* 15, and *Westm.* 1 *c.* 6. *Liber homo non amercietur, &c. nisi per sacramentum parium suorum, viz. proborum & legalium hominum de vicineto, qui facultatum suarum noticiam habeant plenioremi*, as it is recited by *Fleta, lib.* 1. *cap.* 48. That is, Amerciaments are to be assessed by the oath of equals, good and lawfull men of the vicinage or neighbourhood, who have the better knowledge of the estate and abilities of the Amercees.

The parties to this act are the Steward and the Countrey (or *pares*) And these *pares* or *probi homines*, are according to modern practice chosen at the *Leet*, out of the Iury by the steward, to taxe and affeire the amerciaments indifferently, not to wrong any for hatred, nor to spare any for favour, *&c.* which oath by *Bracton lib.* 3. *cap.* 1. *fo.* 116. is thus declared, *Et ad hoc fideliter faciendum* (speaking before, *Ad hoc videndum qualiter quis sit amerciandus &c.*) *affidabunt amerciatores, quod neminem gravabunt per odium, nec alicui deferent propter amorem, Et quod celabunt ea quæ audiverunt*, 38 *Edward* 3 *fo.* 3. 9.

As if one be amercied upon a presentment in a *Leete*, for not repairing a bridge or a highway, The manner of entry up on the Court booke and Rolles must bee *Ideo in mia. et amerciamentum inde afferatur per afferatores in eadem Curia ad tunc electos et juratos ad* 20 *s. Rastall intrat, tit. trus in Amerciam.* 2.

So

So that the Steward cannot taxe or afferre an amerciament upon the preſentment of a Iury, if he doe, it is void in law, and lyeth not againſt the partie amerced, The Steward is only to record and enroll the Amerciaments afferred, and truly and juſtly to eſtreate them to the Bailiffe of the Manour to be by him diſtreyned for and levied for the uſe and benefit of the Lord.

This laſt Act of Taxation and recording thereof doth determine the judiciall part of a Court leet, and after judgement muſt follow execution, wherein the life and vigour of all lawes doe depend.

The miniſteriall part of a Court Leete in the levieing of fines and amerciaments aſſeſſed.

THis part or act hath a double relation, 1 To the Lord, 2 To the Bayliffe. The Court is the Kings, but the emergent profits formerly deſcribed by two remedies, *S.* 1 Fine, 2 Amerciament, belongs to the Lord, and for that they doe ariſe out of offences, which concerne the King and Common weale, the Lord is bound both in Law and conſcience not to bee too prone in remitting of them, eſpecially in thoſe caſes which concerne the King immediately as in his prerogative touching the oath of legiance, or immediately in regard of the Common wealth, whereof the King is *caput et cuſtos*, as

as touching fines upon delinquent Officers and Miniſters, Amerciaments in caſes of common Barretors, Drunkards, falſe and double Weights and Meaſures, deceits and corruptions in Victuallers, Tradeſmen, and Artificers, and ſuch like enormious offences, which in their qualitie are exemplary, and have generally an intereſt in the publike calamities of Church and State: As alſo in Amerciaments, for not repairing of Bridges, Cauſies, Highwayes, and many more of that nature hereafter inſuing in the ſecond part of this Tract, which *ratione communis nocumenti*, deſerve no manner of favour or indulgence. The beſt excuſe that a Lord can plead for himſelfe in ſuch caſes of remiſſion of amerciaments, is but *miſericordia*, And that excuſe is taken away by a former act of mercy and moderation, in the afferors or equals, who being aſtrict by a ſolemne oath, *quod neminem gravabunt, &c.* That they ſhould neither ſurcharge for hatred, nor detract or diminiſh for favour.

The law preſumes, That as they ought, ſo they did aſſeſſe them mercifully, and after a ſolemne and judiciall mercy, *Non opus eſt extrajudiciali miſericordia.*

2 The ſecond relation concernes the Bailiffe, who muſt be true, faithfull, and vigilant (obſerving the Cautions before preſcribed) in levying of diſtreſſes, Hee muſt not bee exoculated with common rurall bribes, Bacon, Cheeſe, &c. as that he cannot ſee a Iury man in his right place

to

to returne, nor any goods or catrell to diſtreine, his office is alſo deſcribed by *Fleta*, *lib.2.ca 67.* whereof ſo much may be applyed, as doth accord with the practice of this age. *Ballivus cujuſcunque manerii eſſe debet in verbo verax, et in opere diligens et fidelis. Ac pro diſerto appruatore cognitus, plegiatus et clericus, qui de communioribus legibus pro tanto officio ſufficienter ſe cognoſcat, Et quod ſit ita juſtus, quod ob vindictam ſeu cupiditatem, non quærat verſus tenentes Domini nec alios, &c.*

A ſpeciall caution for Lords of Leets, againſt the Farming out of their perquiſites.

BY the Statute of 4 *Henry* 4, *cap.* 5. the Sheriffe is not to let to Farme his Bailywicke to any man for the time that he occupieth ſuch office. By the Statute of 23 *Henry* 6, *cap.* 10, For the eſchewing of extortion, perjurie and oppreſſion, it was (*inter alia*) enacted, That no Sheriffe ſhould let to farm in any manner his Countie, nor any of his Bailywicks, Hundreds, nor Wapentakes.

Theſe Statutes doe extend only to Sheriffes and not to Lords of *Leets* and Manours, but as *Leets* and Hundred Courts had their derivation of authoritie from Sheriffes Tournes and Coun-

tie Courts, So they had in processe of time by example (which in evill actions is alwaies a better mistresse than in good) a derivation of their abuses, and corruptions. This growing mischiefe, the wisedome of the Parliament, 1 *Iacob.* 1. 3. *Iac.* well observing, and that Stewards of *Leets*, and Court Barons had in their owne names, or in the names of some other to their use obtained and gotten diverse grants of all the profits and perquisits of such Courts whereof they were Stewards, out of a greedie desire of undue and extraordinarie gaine to themselves, whereby many of his Majesties subjects were unjustly vexed, and by grievous fynes and amerciaments, unduely punished to their great wrong and impoverishment, did therefore restraine all Stewards, Deputy-stewards or Vnder-stewards, that they should not directly or indirectly, in their own names or in the name of any other, take, receive, or make benefit, to his or their owne use, in mony, goods, or any other thing to the value of 12. pence or more, by vertue or colour of any demise or grant then after to be made, of any the profits, perquisites or amerciaments of any such Courts whereof they were Stewards, upon pain to forfeit for every such offence 40 pound, and to be disabled for ever after to bee Steward of such Court, or of any other. This Statute doth in the penaltie point only at the Steward, and therefore I may be bold to free the Lord *a pœna*, but I cannot *a culpa*, For doublesse, he is *particeps criminis*, and as guiltie of wronging and impo-

poverishing the Tenants by the concession, as the Steward by the acceptation thereof. The law would not intrust a Lord to be Iudge in his owne Courts, in regard the profits and perquisits were to accrue unto him, and therefore according to the rule of *Fleta*, *Provideat sibi Dominus de Seneſcallo, &c.* A Steward ought to bee a man indifferent betweene the Lord and the law, being nominated and appointed to his place by the one, be it by word or writing, but credited and invested in authority by the other; Hee receives his name from the Lord, but his power and facultie from the law; He is called in latine *Seneſcallus*, a word of many significations, derived from the word *Schale*, an officer or governour, and *Sen* (as some would have it) an ancient word for justice. So as in this Case, he is *officiarius justitiæ*, and therefore not fit to be a Iudge, and a pernor or proprietarie of the perquisits of his Iudgement, the reason is sufficiently set down and illustrated in the Statute. Though Stewards only be by that act of 1 *Iaco.* debarred from being farmours of amerciaments and perquisites, it is as dangerous and inconvenient, That the Lords Bailiffe should be capeable of any such grant (a thing now too common) for as the one may be too excessive and oppressious in imposing, So the other may be in distreyning. And if the Bayliffe once get a power of dispensation of those things at a certaine Farme, he may be partiall and corrupt in returning of Iuries, and may assume the greater libertie and priviledge to be

remisse in that, and other services to the hinderance and prejudice of his Majesties service in regard of his Farmeship of the profits, and by consequence of the fines which might be imposed on him, by the Steward for his wilfull or negligent offence.

The

The Second part of this Treatiſe,

Which Containes,

Subjectum viſus Franciplegus,

OR,

The matters there inquirable,

and preſentable.

HItherto I have onely touched the Antiquitie and Authoritie of *Court Leets*, and the firſt inſtitution or derivation of that, and all other ſubordinate Courts of Iuſtice. Not unaptly nor unneceſſarily will follow, the uſefull handling of the Subject of the Court Leet, or the matters and miſdemeanors whereof that Court doth challenge peculiar Iuriſdiction, which doe all of them depend either upon the liberitie of the Common law, or upon the power of Statute law.

The firſt Statute law that directs the matters of

of inquirie at the Leet, is the Act for view of Franckpledge, made 18 *Edw.*2. which was but an affirmance of the Common law; and in that Statute are compriſed and enumerated 33. ſeverall particular branches of miſdemeanors inquirable at the Leet, which ſo farre as they may concerne the moderne Iuriſdiction of this age, and are neither obſolete nor antiquate, yee ſhall finde in this inſuing tract; according to a preſcribed method, though diſtinguiſhed from the reſt by quotations of the Statute, and they are divided into two ſorts.

1. They are either matters inquirable, and not puniſhable, as *Treaſons*, *Petty treaſons*, *Præmunires*, and *Felonies*, and all of them to be publiſhed for the diſciplining of his Majeſties leige people, that they might not plead ignorance of the lawes of the Realme; But (as for *Petty treaſons* and *Felonies*) for that they are *contra Coronam & dignitatem*, by the Statute of 1 *Edw.* 3 *cap.* 17, which literally doth command, That all Sheriffes and Bayliffes of liberties, and all others which take Indictments at their Tournes, or elſewhere, where indictments ought to bee taken, ſhall take Indictments by rolle indented, whereof one part ſhall remaine with the indictors, and the other part with him that taketh the inqueſt, ſo that the indictments ſhall not be imbezelled, as they have beene in times paſt, and ſo that one of the enqueſt may ſhew the one part of

1 *Edw.*3.*c.*17

the

the Indenture to the Iuſtices when they come to make deliverance.

Yet this Statute by the generall words doth extend to Stewards of Leets and all others; Alſo ſuch inquiſitions in Tournes, and conſequently in Leets, are void, if every of the Indictors *S.* (Jurors) are not of good fame, and may expend 20. ſhillings by the yeare of Freehold, or 26. ſhillings 8. pence, of Coppihold in the ſame Countie, and this by the Statute of 1 *R.* 3 *cap.* 4. *Stamf. plit. Coron. li.* 2, *cap.* 24, *fo.* 85, 86, 87. 1 *Rich.* 3 *c.* 4.

2. The ſecond ſort are matters here inquirable, preſentable, and puniſhable.

For the firſt it may ſeeme unneceſſary to enquire at the lawday of thoſe things which the Court hath not power to correct and puniſh, and which the authoritie of *Iuſtices* of *peace* doe daily meet with, But there are two reaſons to cleare the doubt and approve the inquiry of them.

1. The benefit of Eſcheats of lands and forfeiture of goods and Chattells: for upon conviction of any offender, in caſes of Felonies, their lands doe eſcheat unto the King if they bee holden of him, or to the Lord, of whom they are holden, Saving to the King, the waſte thereof for a yeare and a day; and therefore it is to be inquired what lands, tenements, and goods the offender hath, for they accrew to the

the King, if the Lord hath not a grant of *Cattalla felonum* by Charter from the King, 9 *H.7, fo.* 23, 29.

Iustice *Flemming.*

2. The second reason *Id.* from the mouth of a *Reverend Iudge*, who in a speech of his concerning the necessitie of *Leets* and law-dayes, said that a *Leet* was *Schola insigniendi juvenes*, a Schoole to direct and instruct young men to know the ancient lawes of the Kingdome, and to prepare them for greater imployments at greater meetings, as the Assises, Gaole deliverie and Sessions of the peace.

The first sort of offences which concerne power of inquirie, but not of punition, are Treasons, Premunire, Pettie-treasons, *and* Felonies.

High Treasons, which *Glanvill lib.* 1, *cap.* 2, cals, *Crimen læsæ Majest. ut de nece vel sedic. personæ Domini Regis, vel regni, vel exercitus, Britton ca.* 29, title *Tournes de Viscounts*, giveth directions for inquiring at the Sheriffes Tourne of the mortall enemies of the King or the Queene, or their children, or of their consenters.

And long after that, by the Statute of 25. *Ed.* 3, *cap.* 2, a declaration was made what offences should be adjudged, *High*, or *Pettie treason.*

If any person doe imagine or compasse the death of our Lord the King, or of the Queene, or of

of their eldeſt ſonne and heire, It is *High treaſon, Crimen læſæ Majeſt.* by the ancient common law, For *Princeps cenſetur una perſona cum ipſo Rege.*

Or if a man doe violate the Kings companion, or the Kings eldeſt daughter unmarried, or the wife of the Kings eldeſt ſonne and heire.

Or if a man doe levie warre againſt the King in his Realme, or be adherent to the Kings enemies, in his Realme, giving them aide or comfort there, or elſewhere.

Other Treaſons which doe not touch the perſon of the King ſo neere.

IF any counterfeit the great ſeale, privie ſeale, or the money of this Realme.

Or if any bring falſe money into this Realme counterfeit to the mony of *England*, knowing it to be falſe; to marchandize, or make payment in deceipt of the King, and his people.

If any doe falſly forge or counterfeit any coine of gold or Silver, which is not the proper coine of this Realme, and is or ſhall be currant within this Realme.

If any doe forge or counterfeit the ſign manuall, privie ſignet, or privie ſeale.

If a man ſlay the Chancellor, Treaſurer, or the Kings Iuſtices of the one bench, or the other, Iuſtices in Eyre, or Iuſtices of Aſſiſe, or any o-

ther Iuſtices being in their places doing their offices.

All thoſe before cited and all ayders, procurers, and abbetters, ſhall be deemed and adjudged Traitors, and ſhall incurre all paines and forfeitures, as in caſes of High treaſon is uſed and ordeyned, 1 *Mar. ca.* 6.

If any for wicked lucre or gaine doe clip, waſh, round, or file any monie, which is or ſhall be the coine of this Realme, or the monie thereof, or the coines or monie of another Realme, which is or ſhall be allowed to be currant within this Realme, or the Dominions thereof, it is high treaſon, 5 *Eliz.* 11.

The forfeiture by the Statute is of goods, but of lands only during life, and no corruption of blood, nor forfeiture of dower.

It was firſt declared high Treaſon, 3 *H.* 5, afterwards abrogated, 1 *Mar.* 1, and revived by this Statute, of 5 *Eliz.* 11.

Premünire and Treaſon.

5 *Eliz. c.* 1. FOr the preſervation of the dignitie of the imperiall Crowne of *England*, it was enacted, 5 *Eliz. ca.* 1. That if any perſon of any eſtate, dignitie, or degree ſoever, ſhould by writing, ciphring, printing, or preaching, deed or act, advi-

ſedly and wittingly extoll or ſet forth the authoritie

ritie of the Biſhop of *Rome*, uſed or uſurped within this Realme, or any the Dominions thereof, every ſuch perſon, their abbetters, procurers, and counſellers, being lawfully indicted or preſented within one yeare after ſuch offence committed, and being lawfully convicted or attainted ſhall incurre the penaltie of *Premunire*, provided by the Statute of Proviſion, made *Anno* 16 *Rich.* 2.

And if any perſon, or perſons, their abbetters, or procurers, after ſuch conviction and attainder, doe eftſoons commit the ſame offences, and be thereof duly convicted and attainted, ſhall incur the paines and forfeitures of high Treaſon.

In like danger are they, who refuſe to take the oath of ſupremacie preſcribed, 1 *Eliz.* 1, which for the firſt offence is *Premunire*. And if any the perſons appointed by this Act, to take the ſaid oath, doe after the ſpace of three moneths, next after the firſt tender thereof, the ſecond time refuſe, or doe not take and pronounce it, ſhall alſo be adjudged in the caſe of high Treaſon, and this Statute requires a publication hereof at the Leete.

But this Act ſhall not extend to make any corruption of blood, diſinheriſon of any heire, forfeiture of any dower, nor the prejudice of any right or title of any perſons, other than the right or title of the offender during his, her, or their life only.

Nota, the penaltie in a *Premunire* is described 23 *Edward* 3. 13. and 16 *Richard* 2. 5. to bee out of the Kings protection, to forfeit lands, goods, and chattels, and their bodies to bee taken, imprisoned, and ransomed at the Kings pleasure. But by this Statute of 5 *Eliz.* 1. It is not lawful to kill any attainted in *Premunire*.

Pettie Treason.

IF any servant kill his or her Master or Mistresse, or a man secular or religious killeth his Prelate or Ordinarie, to whom he oweth faith and obedience, it is pettie treason in them and the abbetters, 25 *Edward* 3. 2.

If a woman killeth her husband, in regard of the subjection and obedience which she oweth to him, it is petty treason. 19 *Henry* 6. *fol.* 47.

If a servant after he bee out of service killeth his Master, so as it be done out of a prepensed malice whilest he was in service, It is pettie treason though not expressely within the letter of the Statute of 25 *Ed.* 3.

It is pettie treason in a sonne who killeth his mother, and he shall be drawne and hanged, and so was the opinion of *Thorpe*, 12 *Edward* 3. 17. where a man killed his mother, took Sanctuary, and was drawne from thence, and convicted, *Cromp. Iust. fo.* 15.

Note that in all *Petty Treaſon* Felony is included, but not *è contra*, and it was affirmed 22 *li. Aſſ.* that a pardon of all felonies would ſerve for *Petit Treaſon*, which is the reaſon that all *Petty Treaſons* are inquiteable as felonies in the Tourne and Leet.

The eſcheats hereof pertaine to every Lord of his owne fee, and the reaſon is, becauſe ſuch Treaſon doth not touch the King himſelfe.

Felonies.

ALL Felonies at the Common law are here inquirable as felonies, ſaving the death of a man and Rape, which are here to bee inquired as treſpaſſe, 7 *Henry* 6, *fo.* 13. 6 *Hen.* 7, *fo.* 4, 41 *Aſſ. plit.* 30.

Of Felonies here inquirable there are theſe foure ſeverall ſorts inſuing, *viz.*

1 Such as doo concerne the adeemption of Life.

2 Or hurt of bodie, without privation of Life.

3 Or the ſpoliation, and taking away of goods

4 Or the taking away, waſteing, and conſuming of life, bodie, and goods.

All privation of Life is comprehended under the generall name of *Homicide*, But as one writes,

Ex

Ex diverſa interficientis intentione hoc diverſas & appellationes & cauſas habet, The intention of the *Actor* doth alter the appellation of the *Act*. A learned Writer of the lawes of *Scotland* doth ſet forth *duo genera homicidii*, one which is called *Murdrum*; and the ſecond ſort, which is called *ſimplex homicidium*, and both are inquiable at the Leete as *Bloodſhed*.

Skeyn l. Regiæ Majeſt.

Murder.

Murther is, where any of prepenſed malice doth kill another felonioufly (*felleo animo*) whether it be openly or ſecretly, and whether the partie be an *Engliſh* man, or any other whatſoever, ſo as he liveth in the Realme under the Kings protection. And all homicide which is done in this manner is called *murder* to this day for the name of *murder* was never changed, but the law doth retaine it continually for the hainouſneſſe of the crime, to put a difference between that and other homicide, and as a *Civilian* writes, *Quicquid e præcedenti malitia, vel ferro, vel veneno, vel modo quocunque perpetratur, illud murdrum dicitur.*

Cowel in Verb.

It was the crying ſcarlet ſinne of *Caine* in the firſt infancy of the world, and hath beene, and is ſo horrid and deteſtable, as that by the Statutes of 2 *Edward* 3, 2, and 14 *Edward* 3, 15, a Charter of pardon was not to be allowed in ſuch a caſe.

By the Statute of 13 *Richard* 2, Stat. 2 c. 1, It was

was provided, that if the charter of the death of a man were alleadged before any Juſtices, and if upon a good inqueſt of the *Viſne* where the dead was ſlaine, they did finde that it was done by awaite, aſſault, or malice prepenſed; the Charter ſhould be diſallowed, and further it ſhould bee done as the law commanded.

Hence it was that a charter of pardon of all felonies will not diſcharge a *Murther*, without expreſſe words.

And here in the dutie and legiance of a Subject, I cannot pretermit the remembrance of his now gratious Majeſties tender and incomparable care in purſuance of the true intention of thoſe ancient lawes, by rejecting and denying all ſuggeſtions and ſuites for pardons in caſes of *murder*, *rape*, and ſuch like heinous crimes, which to the comfort of all his true and loyall ſubjects hee hath ſufficiently demonſtrated, by the equall and exemplary diſtribution of his juſtice, aſwell to the talleſt Cedars as to the loweſt ſhrubs of his Kingdome.

Man-ſlaughter.

ALL *ſimplex homicidium* or Manſlaughter are diſtinguiſhed from Murders, by reaſon they are done ſuddenly, and upon hot blood without malice forethought. In ancient times, if a man did

did lye in waite to kill another, it was felonie, *quia voluntas pro facto*, but now *exitus in maleficiis spectatur, & non voluntas duntaxat.*

These two are called *homicidium voluntarium*, the first aggravated by the name of *Murder*, *ex præmeditato*, which (as *Bracton* noteth) is committed, *Ex odio vel causa lucri nequiter & in Felonia.*

The second in regard of the sudden act not premeditate nor forethought, is qualified by the name of *Manslaughter*, and hath the benefit of *Clergie*, in resemblance to the law of *Moses*; who so killed his neighbour ignorantly whom he hated not in times past had the favour to flye unto one of the Cities of refuge, *Deut.* 19.4.

There are two other sorts of *Homicide*, one *ex necessitate*, in defence of a mans selfe, the other, *ex casu*, or by misfortune, both here inquirable by the common law.

In the first, the necessitie must be so great, as that it may be deemed inevitable, or else that *homicide* is not excusable, the definition of it is rendred by M. *Stamford*, *li.* 1, *cap.* 7.

If a man make an affray upon another, and the party assaulted doth flie so farre as he can, for safeguard of his life, so that hee bee driven to a streit, beyond which he cannot escape, and the other still continue the assaulting of him. In this case if he strike and kill the assailant, It is homicide *se defendendo.*

But

But the matter muſt be ſpecially found upon the Inquiſition or Indictment. And 2. preſidents of ſuch inquiſitions are ſet forth by Maſter *Weſte* tit. Indictments.

Yet he forfeiteth his goods, and muſt purchaſe his Charter of pardon for the ſame, by the Statute of *Glouc. cap. 9.*

Homicide caſuall or by misfortune or miſadventure, is defined by *Moſes*, the patterne for all Law-makers, *Dent. 19.5. When a man goeth into a wood with his neighbour to hew wood, and his hand fetcheth a ſtroke with the Axe to cut downe the tree, and the head ſlippeth from the helve, and lighteth upon his neighbour that he die, he ſhall flee to one of thoſe cities and live.*

So that in this caſe or the like, as throwing a barre, or ſtone, or ſhooting an arrow at a marke, or in doing any other lawfull act, without an evill intent, it is homicide by miſadventure, and the *Actor* ſhall (inſtead of *Moſes* Citie) have his refuge to the mercie of his Majeſties crowne for a pardon of grace, by the Statute of *Glouc. c. 9.* as in the caſe of *ſe defendendo.*

But note as a rule, in all unlawfull actions or attempts the event is not excuſable, as if two or more commit an affray, and a third perſon comes betweene them to keepe the peace, and is ſlaine, albeit this accident was without an evill intent, yet in regard of the unlawfulneſſe of the occaſion (as the affray, *contra pacem*) It is felo-

nie in the manſlayer, and not miſadventure, *Fitz. tit. Coro.* 180. 22. *lib. Aſſ.*

Felonies which doe concerne the hurt, diſhonour, and detriment of the bodie, without privation of life.

Rape.

IF any man raviſh any woman, be ſhe widow, or maid, ſhe not aſſenting before nor after, or if it be done with force ſhe aſſenting after, every ſuch perſon and the aiders and abetters are in the caſe of felony, by the ſtatute of *Weſtm. 2 cap.* 24.

A pardon of all Felonies in generall words, doth not diſcharge a Rape, without ſpeciall words by the Statute of 25 *Edw.* 3. *ca.* And the benefit of Clergie is taken away by the Statute of 18 *Eliz. cap.* 6.

It was ever anciently enquirable at the Tourn and Law-day, where it was not preſented before the Coroner, 18. *E.* 2.

Vpon a preſentment before the Sheriffe in his Tourne, and returned upon a *Certiorari* into the Kings bench, of a Rape felonioufly committed, it was the opinion of *Huſſey* chiefe Iuſtice, and other Iudges, 22 *Edw.* 4. *fol.* 22. that the preſentment

ment was void, and that the power of a Sheriffe in his Tourne, and of a Steward in the Leet, being all one, they had no authoritie to enquire of any things, but ſuch as were felonies, and treſpaſſes by the common Law. Yet it ſeemes the wiſedome of the common Law thought fit to continue and maintaine the enquirie of that and other offences at Tourns and Leets, in the ſame nature and condition as they were before the alteration by Statutes. And though the Statute lawes have in many caſes enlarged and extended the puniſhment, yet have they not abridged the ancient diſcipline and juriſdiction of thoſe Courts.

All Rapes are here inquirable as treſpaſſes, and ſo it appeares by *Fitz.* in his Court Leet, and in M. *Kitchin*, and all other tracts of this nature.

Phiſyognomie defaced or disfigured.

IF any put out any mans or womans eyes, or cut out their tongues, or noſes, or disfigure any member to the intent they ſhould not ſee, nor ſpeake, it was and is inquirable as bloodſheds, *Fitz. Leet* 1 *Mariæ*. And yet by the Statute of 5 *Hen.* 4 *cap.* 5. The malicious cutting out of the tongue, or pulling out of the eyes of the Kings liege people, were made felonie, and not without good ground, ſithence they are the principall members to glorifie almighty God:

The eyes to looke up to heaven, *I will* (saith the *Psalmist* 121.) *Lift up mine eyes unto the hils from whence commeth my help*, And *Psal.* 123. *Ad te levavi oculos meos, Vnto thee lift I up mine eyes, O thou that dwellest in the heavens.*

The tongue to chaunt and send up the sweet incense of prayers and praises to the mercie seat of heaven, It must be *malice* in *excesse*, that dare adventure the depriving and defacing of those instruments and organs of Gods glory.

Felonies which concerne the taking away, wasteing, and consuming of Life, Bodie, and Goods.

Sorcerers, Conjurers, and Witches.

ALL *Sorcerers, Conjurers, and Witches*, which sort of offenders were by the common law guilty of felony, and were to be burnt; *Fitz. Nat. fo.* 269. who cites for his authority *Britton lib.* 1. *cap.* 17. It was death by the law of *Moses*, *Thou shalt not suffer a witch to live*, *Ex.* 21. 18. *A man or woman that hath a familiar spirit, or that is a wizard, shall be surely put to death, they shall stone them with stones, their blood shall bee upon them*, *Levit.* 20. 27.

For the repressing of those abominable offences, divers lawes were made 33. *Hen.* 8. 8. and diverse other succeeding statutes, All repealed,

5 *Eliz.*

5 *Eliz.* 16. And that Statute adnulled by *An.* 1 *Iacobi* 12. By which for the better reſtreyning the ſaid offences, and more ſeuere puniſhing the ſame, It was enacted,

That if any ſhould practiſe or exerciſe any invocation, or conjuration of any evill and and wicked ſpirit.

Or ſhould conſult, covenant with, imploy, or reward any evill and wicked ſpirit, to or for any intent or purpoſe.

Or take up any dead woman or child out of their grave or other place of reſt, or the skin, bone or any other part of any dead perſon, to bee uſed in any manner of Witchcraft or Sorcerie.

Or ſhall uſe or exerciſe any Witchcraft, Sorcerie, Charme or Inchantment whereby any perſon ſhall be killed, deſtroyed, waſted, conſumed, pined or lamed in their bodies, or any part thereof,

It ſhall be felonie in them, their aiders, abbetters, and counſellors, without priviledge of Clergie or Sanctuary.

And if any by ſuch practices ſhall take upon them to declare where any treaſure of gold and ſilver ſhould or might be found, or had in the earth, or other ſecret places, or any goods loſt ſhould be found.

Or to the intent to provoke any perſon to unlawfull luſt.

Or whereby any perſon ſhould be deſtroyed, hurt, waſted or impaired in their bodies, cattell, or

or goods, although the same be not effected and done.

The first offence is imprisonment for one whole yeare without baile, and once in every quarter of that yeare to stand in the Pillory in a market towne, in open market or faire by the space of six houres, and there to confesse their offence.

And the second offence felony, without any priviledge of Clergie or Sanctuary.

This Statute so exactly deciphering these offenders, doth seeme to receive its light from the Leviticall law, *Deut.* 18. *vers.* 10, 11, 12, *Those that passe through the fire, that use divination, or are observers of times, or an inchanter, or a Witch, or a charmer, or consulter with familiar spirits, a Wizard, or a Necromancer, all that doe these things are an abomination to the Lord, &c.*

These offences are inquirable at the Tourne and Leet by the Common Law.

Felonies which concerne the goods of any person, and first of Gods House.

Sacriledge.

SAcrilegious robbing of Churches or Chappels, or other holy places, and taking away any ornaments out of them feloniously, is here inquirable as Felonie.

Such

Such as *Lycimachus* the wicked Church robber is deſcribed to be, *Maccha.* 2. 4. 42. who for his offence was ſtoned by the multitude.

Such offenders in our daies have not the benefit of Church or Clergie.

Fruſtra petit auxilium Eccleſiæ, qui peccat contra Eccleſiam.

Latrocinium. Theft.

ALL Theft called by the Law *Larceny*, *Latrocinium*, (which *Bracton* deſcribes to be, *Contrectatio rei alienæ fraudulenta, animo furandi, invito illo, Cujus res fuerit*) is either *de re magna*, of any thing above 12 pence, or *de re parva*, under twelve pence.

But note that this *Contrectatio rei alienæ*, muſt be of perſonall things, and not of reall things, as to cut downe a tree and carrie it away, Or to take away a boxe with Charters, Or to take and carrie away treaſure trove, any wrecke of Sea, or wayfe or ſtrayes is not felony, *Quia Dominus rerum non apparet*,

Cut-Purſes, or Pick-Purſes.

A Kinde of evill diſpoſed perſons, felons and theeves by the law, which commonly uſurpe amongſt themſelves a wicked brotherhood, and live by the ſpoile of good and true Sub-

Subjects, by felonious ſlights and devices, from which they have their appellation, they ſet up their ſhop every where, not only in places of commerce, as markets, and faires, and other popular meetings, but in the ſacred places of pietie and juſtice, nay at the very execution of malefactors, which ſhould bee a terrour to them. *Britton* cites the inquirie of them at the Tournes, and Stat. 8 *Eliz.* 3, bars them of their Clergie.

Petit Larceny.

Stamford.

Petit Larceny is *parvum Latrocinium*, of any thing under twelve pence, as Hens, Capons, Pigs, Geece, Chickens, Sheaves of Corne in harveſt, and ſuch like. And for ſuch pettie things, the rule of the Law, *Nullus Chriſtian. mortì tradatur, ſed alio modo caſtigabitur*, which is now by whipping, for the Law will not ſuffer the leaſt offence to eſcape without its proportion of puniſhment, *Ne facilitas veniæ, præbeat aliis materiam delinquendi.*

Other ſorts of Felonies.

Felonious taking of Doves in Dove-houſes, ſo as they be not in their ſavadge or flight, for then they are *nullius in bonis*, is felonie, and by the common Law here inquirable.

Taking young Pidgeons out of their neſts, or young Goſhawkes in their neſts, which cannot flie

fly nor goe, *Tr.* 18 *Edward* 4, 10 *Edward* 4, *folio* 15.

Taking fish out of a pond, stewes, or truncks, or any place set a part for a mans private propertie, and not in a common river, Or taking any Cignets, Swans marked, or Peacocks, or any tame domesticke Deere, knowing it to bee domesticke.

All other thefts, which are Felonies at the common Law, are here inquirable, To touch some few for instruction of youth.

If a Taverner put a peece of plate before one to drinke, who carries it away, it is felonie, because he had not the possession but the use of it.

If any Butler or Cooke who hath any vessels or plate to use, doth carrie them away, it is felonie, because the possession, was alwaies in the owner.

If I deliver the key of my chamber to another, and he goes and takes my goods out of my chamber, it is felonie.

If I bargaine with one to carry certaine chests to a place, and hee taketh and carrieth them to another place, and breaketh them open, and taketh away the goods within them feloniously, and converts them to his owne use; It is felonie, for he did not pursue his Bargaine.

If I deliver a Tun of Wine to one to carrie, and he taketh out 20 Gallons, or more, or lesse, it is felonie.

And in like case, If I deliver goods to one to carry to a place, and after he hath carried the same thither, he steales them away, it is felonie, for that the privitie of the deliverie was there determined.

To take the flesh of any tame or wilde foule, or beast, (that is dead) out of the possession of another man.

Or to take the wooll from the sheepes back, or to take the skin or tallow, and leave the bodie behinde, is felonie, *Stamford fo.* 25.

Many more might be reckoned, but the distinction of *animo furandi* being observed; this may serve *instar omnium.*

Burning of Houses.

IF any shall feloniously burne any dwelling House, or any Barne adjoyning, or any stacks or mowes of Corne, neare any Barne or dwelling house in the night time, it was felonie at the common Law, and the offenders no way repleviseable. As appeares by the Statute of *Westm.* 1. *cap,* 15. *No. M.* 11 *H.* 7, *fo.* 1. One indicted for burning of a Barne feloniously in the night time adjoyning to an house, was attainted of felonie by the common Law.

Bracton notes, that this *crimen incendii,* must be done *nequiter & in felonia, vel ob inimicitias, viz.* wickedly, feloniously, or for enmitie, otherwise (saith he) if it be done by chance or negligence *Tunc civiliter agitur contra tales, &c.* An action of

of the Caſe lyeth, M. *Britton li.* 1. *ca.* 17. *fo.* 16. affirmes that ſuch felonious incendiaries were burnt, For *in quo quis peccat, in eo punietur*, *Fitzh. Nat. fo.* 269.

There are two grand felonies which commonly ayme at Contrectationem rei alienæ, *and though little be acted, yet are they aggravated by the will of the offenders*, *viz.* Burglary *and* Robbery.

Burglarie.

IF any man in the time of peace, after Sunſet, and before the ſun riſing (that is to ſay) in the night time, *cum facta ſilentia tectis*) ſhall breake any Houſes, Churches, Walls, Towers or Gates, with a felonious intent, to rob, or kill, or commit ſome other felony, though nothing be carried away, It is Burglary, the indictment muſt be *quod noctanter fregit*.

If a man hath a manſion houſe, and he and all his familie are (upon accident) abſent ſome part of the night out of the houſe, and in the meane time one comes and breakes the houſe to commit felonie, it is Burglary, for although neither the owner nor any of his familie bee in the houſe, yet it is *domus manſionalis*.

By the ſame reaſon, if a man hath two houſes, and dwelleth ſometimes in the one, and ſometimes in the other, And in the night time when the family are out, one of them is broken by theeves, It is Burglary, *Co. li.* 4. *fo.* 40.

Bracton notes, that if the owner of a house in a case of *Burglary*, defends himselfe in his house, and the Burglor be slain, So as the owner could not otherwise defend himselfe, *invasor inultus remanebit*, the owner shall not be punished, For saith he, *Non est dignus pace qui non vult servare eam, &c.*

Robbery.

RObberie, or (as *Bracton* termes it) *rapine*, is when a man taketh any thing from the person of a man feloniously, though it bee but the value of a pennie, is here inquirable. The law was ancient (and so still remaines in the case of Burglarie) That if a man were taken *deprædando*, or *deburglando*, though he tooke or carried nothing away, it was Felonie; it is otherwise now in the case of Robbery, unlesse some thing be taken away.

In both these the benefit of Clergie is taken away by the Statute of 18 *Eliz. c. 6.*

Accessaries before and after the Fact.

IN Felonies, there are and may be Accessaries, If one procure or command another to commit a felonie, though hee bee not present at it, when it is perpetrated, this procurer or commander is an Accessary before the fact.

If

If any perſon receive a felon having knowledge of the fact which he committed, or doe favour or aide him, heis an Acceſſarie after the fact, *Stamford fo.* 40. If there were no receivers, there would not be ſo many theeves.

In the arreſt and apprehenſion of any the offenders before mentioned, the law is carefull to have them brought to examination and tryall, and to prevent all eſcapes which are either voluntarie or negligent, as alſo all reſcous of felonies.

Eſcape voluntarie.

IF any bee arreſted for felony or any other crime, and afterwards the partie in whoſe cuſtodie he remaines, doth ſuffer him to goe at large whither he will, it is a voluntarie eſcape. And if the arreſt of him (who eſcaped) were for Treaſon or Felonie, it ſhall be adjudged the like againſt him who ſuffered the eſcape, and ſo in a treſpaſſe, *Et ſic de ſingulis*, *Stamford fo.* 33.

Eſcape negligent.

ESCape negligent, when one arreſted for felony eſcapeth againſt the will of him who doth arreſt or keepe him, and is not freſhly purſued nor taken before the purſuer loſeth the ſight of him, though he after take him, It is fine-

fineable according to the quality of the offence.

Reſcue de felon

IF any ſhall preſume to reſcue and ſet at liberty by fraud or force any perſon apprehended or arreſted for felonie, it is felonie in the reſcuer, and here inquirable,

1 *Henry* 7. 9.

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The

The Second ſort of Offences; which doe concerne the power of a *Leet*, both in inquirie, and puniſhment, and are either grounded upon the Common Lawes, or the Statute Lawes of this Realme, and may be reduced to theſe ſeverall Branches hereafter following.

The KINGS Prerogative.

ALL Suitors and Reſiants within the Precinct of a Leet ought to appeare in perſon, and are preſentable if they doe abſent themſelves.

Chiefe

Chiefe Pledges.

IF the Capitall or chiefe Pledges of every *Decennary viz.* the Tething man, whose institution and office hath beene before at large described, doe not appeare, the ancient use of them was to take care, that none should come within the Seigniorie or libertie, but find pledges of their good abearing; If this law were well observed, the Justices of peace would not bee troubled with setling and dissetling of persons from parish to parish as now they are.

Legiance.

ALL and every male person of the age of 12 yeares and upwards abiding within a Libertie by the space of a yeare and a day, who hath not done his suit royall, *scil.* taken the oath of Legiance (before at large expressed) are presentable, 18 *Edward* 2. Every one of that age being a subject borne, must be *Iuratus in Decennaria, Brooke* Leet 39.

Lamb. Arch. See *Canutus* Law 19.

Nos verò præcipimus ut quisque annos ad 12 *natus jurejurando fidem det, se in posterum tum furto, tum furti societate temperaturum.*

All and every person or persons, who shall keep or harbour any such youths, and do not bring them in to be sworne, are presentable, *Broo.* Leet 7.

Com-

Common Nuſances

ALL Purpreſtures are here inquirable; The word is not obvious to every countrie capacitie, *Glanv. li. 9, ca. 11.* thus defines it, *Dicitur autem propriè purpreſtura, &c.* It is properly called Purpreſture, when any thing is unjuſtly uſurped upon the King, as upon the Kings demeſnes, or in ſtopping the publike wayes, or turning publike waters out of their right courſe.

Or when any man ſhall erect any thing in any Citie upon the King's ſtreet, and generally, *Quoties aliquid ſit ad nocumentum Regii tenti, vel Regiæ viæ vel civitatis.*

All Purpreſtrures, are either *erigendo*, or *deſtruendo*, either in ſetting up, or caſting downe ſomething which may tend to a publike annoyance.

They are commonly made in Lands, Woods and waters, to the inconvenience of his Majeſties leige people, by ſtockes and blockes, or levying any Dikes or Hedges, or by making or filling up any Dikes.

If any walls, houſes, pales or hedges, be made and erected, or beaten and throwne downe, or any wayes and paths opened or ſtopped to the hurt of the people.

If any waters be turned or ſtopped, or diverted out of their right courſe, or if the common Rivers be corrupted and annoyed by whitetawing, lime, or ſuch like.

Or if any ditches mounds, and Rynes, which are the fences, of grounds be not duely scoured and cleansed.

Incroachment on High-wayes.

IF any incroach upon the Kings high wayes, or any carrion or unwholesome thing be cast into the same, or in the common streets to the annoyance of the people.

Bridges, &c.

IF any Bridges or Causeyes be decayed or broken, inquiry is to be made of the defects, and who ought to repaire them.

Watering with Hempe, &c.

IF any person do water any Hempe or Flaxe in any river, running water, streame, or brooke, or other common pond, where beasts doe use to drinke, it was and is a popular nuisance at the Common Law, and inquirable and punishable in the Leet.

But by the Statute of 33 H. 8. *cap.* 17. the partie offending doth forfeit for every time so doing 20. shillings, the one halfe to the partie grieved, or any other that will sue for the same forfeiture in any Court of Record, Leet, or Law-day, by action of debt, bill, plaint, information or otherwise, and the other moytie to the King. 33 H. 8. c. 17.

As

As High-wayes must not be incroached upon or annoyed, so they must be duely repaired and amended.

High-wayes.

THere are two sorts of Highwayes, 1 *Chimini Majores*, 2 *Chimini minores*, The *Majores* are the foure great fosse wayes, whereof two extend through the Kingdome in length, and two in breadth.

The lesser wayes are such which leade from Citie to Citie, and from one Towne to another, *per quos mercata vehuntur*, &c. for conveying and carrying of wares and merchandize from market to market; and concerning these, it was the Law of King *Edward* Confessor, *Si quippiam operis ad eorum perturbationem erigatur solotenus deponatur, & chimini more solito reparentur*, which is agreeable to the common Law at this day.

And for that the highwayes grew very noysome and tedious to travell in, and dangerous to all persons, passengers, and carriages, It was enacted, That the Constables and Churchwardens of every parish within this Realme, should yearly upon tuesday or wednesday in Easter weeke, call together a number of the parishioners, and elect two honest persons of the parish to bee surveyers and orderers for one yeare, of the workes for amendment of the high wayes in their parish, leading to any market towne. 1, 2. *Ph. Mar.* ca. 8.

That the surveyer shall have authoritie to or-

der and direct the persons and carriages which shall be appointed for those workes by their discretion, and shall take upon them the execution of their offices upon paine of 20 shillings every one making default.

That Stewards of every Leet have power to enquire by the oathes of the suitors, of all and every the offences, that shall bee committed against every point and article of this Statute, and to assesse such reasonable fynes and amerciaments as shall be thought meet.

That the Steward of every Leet shall make estraets indented of all the fynes, forfeitures, and amerciaments, for the defaults presented before him, and shall deliver one part signed and sealed by him to the Bailiffe or high Constable of every Hundred, Rapelathe or Wapentake, where the defaults shall be presented, and the other part to the Constables and Churchwardens of the parish, wherein the defaults were made, the same to bee yearely delivered within sixe weekes after *Michaelmas*, to bee bestowed on the high wayes in the said parishes.

That the Bayliffe and head Constable shall at least once every yeare, betweene the first of March and the last of Aprill, make true account and payment of all such summs of money to the Constables and Churchwardens of every such parish, or two of them, as hee shall have collected upon any the said estreats, upon paine to forfeit, 40. shillings for every time, to be bestowed as aforesaid.

This

This Statute by a Latter of 5 *Eliz.* 13. was continued and the authoritie of ſupervisors inlarged, for the taking and carrying away of rubbiſh, or the ſmalleſt broken ſtones, of any quarrie or quarries within any ſuch pariſh, without licence, controllment or impeachment of the owner or owners, ſo much as ſhall bee deemed neceſſarie for the amendment of high wayes, and in default of any ſuch quarries, to digge in any private groundes, for any gravell, ſand or ſinder, and to gather ſtones lying upon lands or grounds, ſo as the ſaid digging bee not in the garden, houſe, orchard, or meadow of any perſon or perſons, and under other proviſions in the ſaid ſtatute mentioned. 5. *Eliz.* 13.

It is further enacted, that the heies, fences, dikes or hedges, next adjoyning on every ſide, to any high or common fairing wayes, ſhall from time to time, be diked, ſcoured, repaired, and kept low, and all trees and buſhes growing in the high wayes, cut downe by the owners of the ground or ſoile, whereby the wayes may be open, and the people have the more readie and eaſie paſſage in the ſame. If any perſon ſhall not doe it, he forfeits, 10. ſhillings, 18. *Eliz.* 9.

There muſt bee yearely, ſix dayes uſed and imployed in the reparation and amendment of the high wayes, before the feaſt of the nativitie of S. *Iohn Baptiſt*, and knowledge thereof to be given in the Church the next Sunday after *Eaſter*, and upon the ſaid dayes the pariſhioners ſhall endeavour themſelves to the mending of the

wayes

wayes, and shall bee chargeable as followeth, *viz.* Every person for every plow-land in tillage or pasture within the parish, And every other person there keeping a draught or plow, shall finde and send at every day and place, one Wayne or Cart furnished according to the customes of the Countrey, with all necessaries meet to carry things, and also two able men with the same, upon paine of every draught making default, 10 shillings.

Every other housholder, and every cottager and labourer, not being an hired servant by the yeare, shall by themselves, or one sufficient labourer, upon every of the said dayes, worke there every of the said dayes, upon paine every one making default, each day twelve pence.

Every person (except such as dwell in London) that shall be assessed in subsidie 5 pound in goods, or 40 shillings in lands, or above, and being none of the parties chargeable by any former law, but as a cottager, shall finde two able men every of the said six dayes to labour in the high wayes.

Every person having a plow-land in severall parishes, shall be chargeable to the making of the wayes where he dwelleth.

Every person keeping in his or their hands severall plow-lands, in severall parishes, shall be charged to finde one cart or waine *&c.* furnished for the amendment of the high wayes within each severall parish.

All

All occupiers of lands adjoyning to the ground so adjoyning to such high way, where any ditching or scowring should or ought to be, shall from time to time ditch and scoure in his and their ground so adjoyning, whereby the water conveyed from the high way over the ground next adjoyning, may have passage over the said ground next adjoyning, upon paine for every time, for every rod not so ditched and scoured 12 pence.

If any having any ground, adjoyning to any high way, leading to any market towne, shall cast or scoure any ditch, and throw the soyle into the highway, and suffer it to lye there by the space of six moneths, shall forfeit for every load 12 pence.

The moitie of the forfeitures by all these three severall Statutes, shall be to the Church-wardens to bestow upon the ways, and Stewards of Leets have power to hear and determine all offences, &c. 1, 2. *Phil. Ma. ca* 8. 5 *Eliz.* 13. 18 *Eliz.* 19.

Popular Annoyances.

ALL common or popular Nuisances done to diverse and sundry of the Kings Subjects, are inquirable as this ancient Court, and so are all trespasses at the Common Law being popular.

Boun-

Boundaries.

IF any ancient bounds, meres, or landmarkes be withdrawne and taken away, such as distinguish hundreds, parishes, tythings, Common, Common meadowes, and common fields to avoid confusion, and consequently dissention, are here inquirable, 18 *Edw.* 2.

Cursed is he that removeth his neighbours landmarke, and let all the people say, Amen. And it is commanded in *Deuteron. Thou shalt not remove the ancient bounds which thy fathers have made.*

It is to be observed that divisions by lots and boundaries, have beene ever held in great esteem in all ages, even amongst the Heathens.

For the taking away of a particular boundary or mere, which concernes onely one man, an action of trespasse lyeth. And so I finde in the Regist. fo. 107, *De petris pro metis positis abstractis.*

Hedge-Breakers.

IF there be any common breakers of hedges within the Leet, who teare up frithes and fences, and leave their neighbours ground subject to incursions of Cattell, and are a meanes that many trifling actions of trespasse are set on foot, to the disquiet of his Majesties Subjects.

Pound-

Pound-Breach.

IF any breake any common pound or pinfold, which is *Cuſtodia legis*, to take any diſtreſſe out of the ſame, though the diſtreſſe be tortious and without cauſe, yet the poundbreach is unlawful, for that the cattell were in the cuſtodie of the Law, and the owner might have a Replevin.

If any ſhall reſcue, and by force take away any cattell or other thing which is diſtreyned for any rent, amerciament, or other cauſe before it be impounded, or in any other ſafe cuſtodie, it is preſentable.

Reſcous.

IF any commit any Reſcous within the libertie upon the Sheriffe or his Bailiffes, or any the Kings officers, in diſturbance of them, from taking and detaining any perſon arreſted.

Bloodſhed.

IF any perſon commit any aſſault whereby bloodſhed doth enſue, or doth make any affray or outrage whereby any mutinie or diſturbance doth ariſe amongſt the Kings leige people, it is popular and preſentable, 1 *R.* 3, *fo.* 1. *Bro. Preſentm.* 7 *Leet* 26.

Generall Grievances.

THe subsequent offences will deserve that marke or character, in regard they are generally pernicious to the Common-wealth by their fruites and example, and are punishable by the common Law, Or because they are generally prohibited by Statute Lawes for the good of the publike weale: And in the first ranke are the evill members of a State and Realme, of which regiment the common Barretor may well be the ringleader.

Common Barretors.

IF there be any common Barretors within the libertie, they are of both sexes, Scoulds, Brawlers, common malefactors, disturbers and disquieters of their neighbours.

A common Barretor is well discribed. *Co. li. 8 fo. 37.* to be a common mover and stirrer up or maintainer of suites, quarrells or parties either in court or countrie.

1 In Courts of Record, or in the Countie, Hundred, and other inferiour Courts.

2 In the Countrey three manner of wayes, 1 In disturbance of the peace, 2 In taking or detayning of possessions of houses, lands or goods, (which are in question) not only by force, but also by subtiltie, 3 By false invention and dispersing of calumniations, rumors and reportes, where-

whereby diſcord and diſquiet doe ariſe amongſt his neighbours.

This perſon is the common incendiarie of ſtrife in his neighbourhood, and is ever fiſhing in troubled waters. Hee is alwayes like a Woolfe worrying his harmeleſſe neighbours with multiplicity of unjuſt and fained ſuits, either by information upon penall Statutes, or by perſonall actions, for himſelfe and others, or by malicious procuring of Latitats or Supplicavits of the peace, and all by fraud and malice, to inforce the poore partie to give him money, or ſome other compoſition *ad redimendam vexationem.*

Eviſdropper.

THe Eviſdropper who is a *ſpecies* of a Barretor, doth ſucceed in his order, one that lurks under walls or windowes, by night or day, to heare and carry tales, and raiſe ſtrife twixt neighbours, a moſt perillous member in a peacable common wealth: the holy Ghoſt in the new Teſtament, calls ſuch an one *Diabolus*, a falſe accuſer, calumniator, or make-bate, 2 *Tim.* 3. 3 *Salomon, Prov. ca.* 26. *v.* 20. cryes out againſt them in this wiſe, *Where no wood is, there the fire goeth out, where there is no talebearer, there ſtrife ceaſeth, verſ.* 21. *The words of a talebearer are as wounds, and they goe downe into the innermoſt parts of the bellie, Levit.* 19. *ver.* 16. *Thou ſhalt not goe up and downe as a talebearer among the people.*

The litterall interpretation of a Talebearer

or accuſer is one that maketh marchandiſe as it were of words, uttering them as wares, going from place to place to heare and ſpread abroad criminations of other men.

Such creatures are compared to a kinde of fowle and infectious vermin, called Weaſels, who conceive by the eares, and bring forth their little ones by the throat, a thing abominable in men to receive by the hearing any falſe and feyned deprivations, and to utter and exaggerate the ſame by their tongue and report, and certainly a patulous and forward eare, doth incourage and intiſe a buſie tongue, and both the detractor and the hearer' *Diabolum habent, alter in aure, alter in lingua.*

Lewd houſes.

THoſe who keepe and maintaine in their houſes lewdneſſe, and lewd ſtrumpets, whoſe perſons are juſtly branded for Bawdes and Panders, and their habitation for Stewes and Brothell houſes, which miniſter frequent occaſion of murthers, and bloodſheds, and often infringment of the peace, to the utter ruine and deſtruction of families, a moſt odious and audacious ſinne which poyſoneth and corrupteth the publike weale, this lewd and too accuſtomed vice is puniſhed in the ſpirituall Court, *pro ſalute animæ*, but here inquirable, *pro ſalute reipublicæ*, 27. *Hen.* 8. *fo.* 17.

Rogues

Rogues, &c.

ALL Rogues, Vagabonds, and ſturdie perſons that wander up and downe are here inquirable by the common law; For ſuppreſſing ſuch kinde of people, diverſe lawes were made which were all repealed by the Statute of 39. *Eliz. ca.* 4. and thereby a deſcription made, who ſhould bee accompted Rogues, Vagabonds and ſturdie beggars, That is to ſay, 39 *Eliz. ca* 4.

1 All perſons calling themſelves Schollars, going about begging.

2 All Seafaring men pretending loſſe of ſhips or goods.

3 All idle perſons going about begging, or uſeing any ſubtile craft or unlawfull games.

4 Or faining knowledge in Phyſiognomie, Palmeſtry, or other like craftie ſcience.

5 All tellers of deſtinies, fortunes, or otherlike fantaſticall imaginations.

6 All Proctors, Procurers, Pattent-gatherers, or collectors for Gaoles, Priſons, or Hoſpitals.

7 All Fencers, Bearewards, common Players of interludes and minſtrells, wandring abroad (other than ſuch as belong to honourable perſonages, lycenſed under their hands and ſeales of armes.)

By the Statute of 1 *Iac.* 7. which did continue and inlarge the ſaid Statute of 39 *Eliz.* all licences of honourable perſonages are taken away 1 *Jac.* 7.

And

And all glaſſemen wandring up and downe the countrey are numbred in the ranck of rogues, By this Statute every man is bound to apprehend ſuch a rogue as he or they ſhall ſee or know to reſort to their houſes to aske or receive any almes, and to carrie, or cauſe him to bee carried to the next Conſtable or Tethingman, upon pain for every time, 10 ſhillings, to be levied and imployed according to the proviſion of 39. *Eliz.* in manner following, *viz.*

For the reparations and maintenance of the houſes of correction, and ſtocke and ſtore thereof, Or reliefe of the poore where the offence is committed, at the diſcretion of the Juſtices of peace of the limit, citie, or towne corporate, and to be levied by warrant under the hands and ſeales of two or more of the ſaid Iuſtices, by diſtreſſe and ſale of the offenders goods and chattels.

And in default of any ſuch levie, then to be levied and imployed by the Lord of the Leet or his Officer, in ſuch manner, as is preſcribed by the Statute of 39. *Eliz.*

By the ſame Statute of 1 *Iac.* If ſuch Conſtables or Tethingmen, do not cauſe the ſaid rogues, vagabonds, and ſturdie beggars, to be puniſhed according to the Statute of 39. *Eliz.* That then they ſhall forfeit 20 ſhillings for every default to be levied, and imployed in manner as in the Statute 39. *Eliz.* is ſet forth.

This Statute of 1 *Iacob.* is continued by 21. *Iacob.* and 3. *Car.* and doth not any way abridge the

the former power of the Court Leet, in inquiring, preſenting, and amercing, but rather gives an amplification to it, and a ſpeciall direction (who are to be accounted rogues) which before thoſe Statutes were not ſo exactly known and deciphered.

This Law in point of preventing juſtice, is the moſt uſefull of all other ordinarie Lawes, for experience will teach every one, that the opportunities of their lawleſſe and wandering liberties, (were not ſuch provisions of reſtraint made) would miniſter occaſions of robberies, burglaries, aſſaſinations, murders, and other grievous offences.

Meſſage of Theeves.

IF any be imployed, and doe goe in the meſſage of theeves, and are as bad, and worſe than rogues, are here inquirable.

Maſterleſſe perſons.

AND ſo are thoſe, who like Antipodes, walk in the night, and ſleepe in the day, men that live without meanes, or maſter, fare well, and have nothing, who are not able to render an account of their life.

A Haun-

Haunters of Alehouſes.

Amongſt vagabonds, or hazarders and night walkers, M. *Fitzh.* and M. *Kitchin*, have joyned common haunters of Tavernes, or Alehouſes, and ſince they wrote, diverſe good laws have beene made, aſwell againſt ſuch haunters, as againſt drunkards, and their harbourers, and receivers.

The firſt Statute being 1. *Iaco.* 9. intituled, an *Act to reſtraine the inordinate haunting and tipling in Innes, Alehouſes, and other victualing houſes*, doth ſet forth the ancient true and principall uſe of ſuch houſes, to be for receipt and releif of wayfaring perſons, and for ſupply of the wants of poore people, and not meant for the harbouring of lewd and idle perſons to ſpend and conſume their money and time in drunken manner.

By which Statute it was reſtrained that no Alehouſe-keeper, *&c.* ſhould permit any inhabitant or townes man (other than labourers and handicrafts-men, or perſons invited by any traveller) to continue drinking or tipling in any ſuch houſe, upon paine to forfeit for every ſuch offence to the uſe of the poore of the pariſh ten ſhillings.

Drunkards.

And afterwards by a Statute of 4. *Iac.* 5. and intituled, *An Act to repreſſe the loathſome and*

4 *Iac.* 5.

and odious ſinne of Drunkenneſſe, which thereby is rightly deſcribed to be the roote and foundation of many other enormious ſinnes, as bloodſhed, ſtabbing, murder, ſwearing, fornication, adulterie, and ſuch like, to the great diſhonour of God, and of our nation, the overthrow of many good arts and manuall trades, the diſabling of diverſe workemen, and the generall impoveriſhing of many good ſubjects, abuſively waſting the good creatures of God, It was provided, that every perſon which ſhould be drunke, and thereof lawfully convicted, ſhould within one weeke after conviction pay 5. ſhillings to the uſe of the poore of the pariſh, And upon refuſall or neglect or non abilitie to pay it, to bee committed to the ſtockes, there to remaine ſixe houres, and if any perſon ſhould continue drinking and tipling in any Inne, *&c.* in the place where he inhabiteth, being duly prooved in ſuch manner as is limited in the act of 1 *Iaco.* He ſhall forfeit 3. ſhillings 4. pence, to be levied as the penaltie of drunkenneſſe, and for non-payment to bee committed to the ſtockes, by the ſpace of foure houres.

That all Conſtables, Churchwardens, Headboroughs, Tethingmen, Aleconners, and Sidemen, ſhall in their oathes incident to their ſeverall offices, bee charged to preſent the offences contrary to this Statute.

This Statute appoints a forfeiture of ten ſhillings upon the Conſtable or other inferiour officer, who ſhall neglect the correction

of a drunkard, or levying the penaltie upon him, and further gives power to the Court Leet, to inquire of, and punish all the offences in these two acts, so as the presentment be within six moneths after the offence.

21 *Jac. ca. 7.* These two Acts by a latter of 21 *Iaco. ca. 7.* with the alterations and additions therin expressed, are to be put in due execution, and to continue for ever.

And whereas proofe of two witnesses was required by the said statures, now the proofe of one should be sufficient.

That the voluntarie confession of any offender against either of the said Statures (before any person, authorized by the said act to minister an oath) shall suffice to convince the partie so offending, and afterwards the oath of the party so offending and confessing shall be taken and be a sufficient proofe against any other, offending at the same time.

That if any stranger should bee found upon view of his owne confession, or proofe of one witnesse to be tipling in any Inne *&c.* hee shall incurre the like penaltie, as if he were an inhabitant, to be levied and disposed, as in the said act of 4 *Iac.* is expressed.

That the oath limited by the said Statute of 4. *Iac.* to be ministred to Constables, *&c.* for presenting of offences contrary to the Statute, shall be alwayes hereafter inlarged and extend to present all offences, done contrary to all these three severall Statutes, according to the severall al-

alterations and additions in the ſame. 1 *Car. R ca.4.*

By the Statute of 1 *Car. Regis cap.*4. intituled, *An Act for the further reſtraint of tipling in Inns, Alehouſes, and other Victualing houſes.* it is provided that every Alehouſe keeper, *&c.* which ſhall permit any perſons not there inhabiting to tipple in his houſe, ſhall incurre the ſame penaltie, and in ſuch manner to be prooved, levied, and diſpoſed, as by the Law of 1 *Iac.* is appointed for ſuffering townſmen, and inhabitants to tipple in their houſes.

And keepers of Tavernes, and ſuch as ſell wine in their houſes, and doe keepe Innes or victualling, ſhall be taken to bee within the ſaid two former Statutes of 1. and 4. *Iac.* and alſo within this Statute of 1 *Car.ca.*4. 4 *Iac.*5.

A drunkard convicted the ſecond time, is to be bound with two ſureties, to the good behaviour from thence forth. 21.*Ia.*7. Every Alehouſekeeper which ſhall be convicted for any offence, againſt any the branches of either of the two former lawes, and the meaning of this Statute, ſhall for the ſpace of three yeares after his conviction, be utterly diſabled to keepe any ſuch Alehouſe.

Who ſhall bee a drunkard.

There is no Law or Ordinance ſo exactly made by the wiſedome of a State; but the enemie of mankinde, and his miniſters and members, would invent ſome device and machination to elude it. As, to that good law againſt that odious ſinne of drunkenneſſe, there is a great diſputation growne (as if there were need of a new act to interpret it) who ſhall be accounted a

drunkard. In the opinion of ſome famous in that faculti e, none ſhall be deemed a drunkard, unleſſe he be ſo bereaven of his memorie, reaſon, ſenſe, and vnderſtanding, that he is not able to know the difference betweene his head and feet,

Et pedis & capitis quæ ſint diſcrimina neſcit.

But ſuch ſophiſticall *Sympoſiarch ſtes* muſt look backe upon that of *Iſaiah*, *Væ qui conſurgitis mane ad ebrietatem ſectandam, & potandum uſque ad veſperam ut vino æſtuetis*, that wine may inflame them.

All exceſſe of drinking, *vltra neceſsitatem*, which doth inflame and begets a diſtemper, and diſorder, in the ordinary diſpoſition of nature, is to be accounted Drunkenneſſe. He that is *ſtrenuus in vino*, and can carry his burden like a brewers Horſe, is not more excuſable than the weake infirme drunkard.

All the ſeverall ſorts and kindes of drunkenneſſe, may bee reduced under two regiments. 1 The one ſort which drink *ad inſaniam*, till they be ſo mad, as that they will fight with a wall, or with their owne ſhadow in the Moone light. 2 The other ſort which drinke *ad delirium*, till they fall into a ſottiſh and ſwiniſh drowſineſſe, The *Pſalmiſt* 107. *verſ.* 27. deſcribes them by a compariſon of ſhips on the Sea, *They reele to and fro, and ſtagger like a drunken man, and are at their wits end.*

I neede not ſpeake more of them, There are many Sermons and Tracts extant in print againſt them, and yet a man may commonly with griefe be-

hold ſeverall ſorts of them reeling, and in conflict with the ſtones of the ſtreets, in the face of the Sunne, and paſſe with impunitie.

There follow three miſchievous members, who are publike enemies to the peace and plenty of a Realm, one preyes upon the coine, the other two, upon the corne and victuall of a Common weale.

Uſurie.

USurers were here inquirable, as offenders againſt the common Law, It appeares by *Glanvill, li. 7. ca. 16.* that their goods and all their chattels, which they had at the time of their death, were to be ſeized to the Kings uſe, and their heires to be diſinherited, and their lands to returne to the Lord of the fee, and the reaſon why he was not to be convicted in his life time, becauſe it was preſumed that hee might repent and forſake the ſinne before his death, which if he did, he was then freed from the mulct of the Law, and ſo it is rendred in the ſame tract,

Sciendum tamen, quod ſi quis aliquo tempore uſurarius fuerit in vita ſua, & ſuper hoc in patria publicè defamatus, Si tamen a delicto ſuo ante mortem ſuam deſtiterit & penitentiam egerit, poſt mortem ipſius, ille, vel res ſua lege uſurarii minime cenſebuntur.

And

And *li.* 10. *ca.* 3. He defynes what a Vsurer is, one that taketh more than his owne, *Si quis aliquid crediderit, si plus eo receperit, usuram facit.*

Lamb. Arch. fo. 23. This Law had its propagation from the confirmation of the *Mosaicall* law by king *Alfred. Exod.* 22. *verſ.* 25. *Si pecuniam mutuam dederis populo meo pauperi qui habitat tecum, non urgebis eum quaſi exactor, nec uſuris opprimes.*

It ſeemes by the Statute *de Iudaiſmo*, made *An Dom.* 1289. *&* 16, *Ed.* 1. That the diſperſed Iewes (who then much infeſted this Kingdom) were the firſt introductors of this ſinne, and the only uſurers of this Kingdome, whereby his Majeſties leige people received much miſchiefe and diſinheriſon, and many offences aroſe, and therfore for the honour of God, and common profit of his people, it was ordained, That no Iew ſhould from thenceforth take any thing to uſurie of any Chriſtian, upon any Lands, Rents or other things, and if any Iew did offend againſt that ordinance, he ſhould loſe his loane, be puniſhed at the Kings pleaſure, and the Chriſtian ſhould recover his gage, *viz.* his lands, rents, or other things.

This Iewiſh leproſie had ſo ſpread it ſelfe in this Kingdome, that it grew even exceſſive amongſt Chriſtians, for redreſſe whereof, it was provided 3. *Hen.* 7. 6. That all unlawfull cheviſance and uſurie ſhould be extirpate, and Brokers of ſuch bargaines, ſhould be ſet on the pillory, be halfe a yeare impriſoned, and pay twenty pound.

That

That Statute and an other of 11 *H.*7.8. were repealed by 37. *Hen.* 8 *ca.* 9. And provision made, that no person by any covin, engin or other deceiptfull way should take (above ten pounds in the hundred) interest for one whole yeare, upon paine to forfeit the treble value of the wares, marchandizes, and other things so bargained *&c.* imprisonment of bodie and fyne and ransome at the Kings pleasure.

This Statute being repealed 5. *Ed.*6. 20. was fully revived 13. *Eliz. ca.* 8. And further enacted, that all bonds, contracts, and assurances, collaterall, or other to be made for payment of any thing reserved above the rate of 10. pound in the hundred, should be utterly void, and all Brokers, sollicitors, and drivers of usurious bargaines, above that rate, to be judged, punished, and used as Counsellors, Attourneys, or Advocates in any case of *Præmunire*. And for that all usurie being forbidden by the Law of God, is sinne and detestable,

It was further enacted, That in all usurie, loan, and forbearing of mony at 10 pound in the hundred and under, the offender should forfeit so much as shall be reserved over and above the principall, to be recovered and imployed as is limited for forfeitures by the Statute of 37. *H.*8. And not to be punished by the Ecclesiasticall law or otherwise.

This law was made perpetuall by the Statute of 39. *Eliz.* 18.

The

21 *Iac. ca.7* The Statute of 21 *Iac. cap.* 17. which by 3. *Car. cap.*4. is made perpetuall, doth reſtraine the taking of any more, than after the rate of 8. in the hundred, for one whole yeare, under paine of forfeiture of the treble value of the monies, wares, *&c.* and all bonds, contracts, and aſſurances to be void.

The Scriveners, Brokers, Drivers, and Sollicitors, to forfeit 20 pound, and impriſonment for halfe a veare, if they take above 5. ſhillings for the procuring or driving the loane, or forbearing the ſame lent after the rate of an hundred pound for one yeare, or above 12, pence for making or renewing the bond.

Theſe two laſt mentioned Statutes doe reſpectively ſtand and remaine in their proper and peculiar force, according to their ſeverall reſtrictions and limitations, yet none of them doe abrogate the inquirie of it as an offence of the common Law, in the Sheriffes Tourne or Court Leet, but the Steward cannot inquire nor inflict the forfeitures, limited by the Statutes, becauſe thereby no power is given unto him.

Foreſtallers.

IF any buy, or cauſe to be bought any marchandize, victuall or other thing, comming by land or water towards any faire or market, to be ſold in the ſame, or toward any Citie, Port, Haven, Creeke, or rode of this Realme or *Wales* from

from any part beyond the Sea to bee ſold.

Or ſhall make any bargaine, contract or promiſe for the having or buying of the ſame, or any part thereof, before it ſhall bee in the market, faire, citie, port, *&c.* ready to be ſold.

Or ſhall make any motion by word, letter, meſſage, or otherwiſe, to any perſon for inhaunſing the price, or dearer ſelling of any of the ſaid things.

Or elſe diſwade, move, or ſtirre any perſon comming to the market, or faire, to forbeare the bringing of any of the things to any faire, market, citie, *&c.* to be ſold, ſhall bee judged a Foreſtaller.

Regrator.

IF any ſhall Regrate or get into his poſſeſſion, in any faire or marked, any Corne, Wine, Fiſh, Butter, Cheeſe, Candles, Tallow, Sheep, Lambes, Calves, Swine, Pigs, Geeſe, Capons, Hens, Chickens, Pidgeons, Conies, or other dead victuals whatſoever, that ſhall be brought thither to be ſold, and doth ſel the ſame againe, in any faire or market holden in the ſame place, or in any other faire or market within foure miles thereof, ſhall be reputed a Regrator.

Ingroſſer.

IF any get into his hands by buying, contracting, or promiſe taking (other than by de-

miſe, grant, or leaſe of Land, or tythe) any corn growing in the fields, or any other corne, butter, cheeſe, fiſh, or other dead victuall within England, to the intent to ſell the ſame againe, ſhall be taken an unlawfull Ingroſſer.

They are all linked together in this Statute, and the puniſhment of them equall, *viz.*

1. Offence, impriſonment for two moneths without baile, and forfeiture of the value of the goods bought, *&c.*
2. Impriſonment for one halfe yeare, and loſe the double value of the goods, *&c.*
3. Offence, pillorie in the place where hee dwels, forfeiture of all his goods and cattell, which he hath to his own uſe, and impriſonment during the kings pleaſure.

By this Statute, no expreſſe power is given to Leets to inquire of theſe offences, or any of them, whereupon much doubt hath ariſen, and much neglect inſued, in not charging the ſuitors to preſent the offenders, and foreſtallers, and Regrators at Tournes and Leets, the rather for that M. *Kitchin* in his booke of that ſubject, and in the particulars of the charge, doth not once mention thoſe offences, but that they were and are offences at the common Law, and inquirable and puniſhable in Tournes and Leets will be very manifeſt.

Fitz Leet, fo. *Fitzh.* in his Court Leet, fo 86. printed *A.D.* 1559. after the Statute of 5 *Ed.* 6. doth charge the inquirie of Foreſtallers and Regrators.

And

And the Statute 5. *Ed.6*, doth not abridge any other power or juriſdiction, as appeares by a clauſe in the ſame Act, *viz.* If any ſhould bee puniſhed by vertue of that Act, for any thing therein mentioned, he ſhould not otherwiſe be vexed or put to any paine for that thing. It will not be amiſſe here, to take a ſhort ſurvey of the ancient ordinances of this Kingdome, which were but declarations of the common Law.

The old Law, intituled, *Iudicium Colliſtrigii*, 51 *Hen.* 3. provides that inquirie be made *de forſtallariis*, who before the due houre did buy any thing, contrary to the ordinance of the towne and market. Or doe go out of the town to meet with any vendible things, and doe buy them *extra villam*, that they might ſell them in the towne to Regrators, at a dearer rate, than they which would have brought it into the Towne. 51 *Hen.* 3.

That law is ſeconded with another, intituled *Statut. de piſtoribus & braciotaribus &c. & de Forſtallariis* (being repealed only touching the aſſiſe of wine by 21 *Iac.*) by which the King commands, that no foreſtaller ſhould dwell in any towne, and renders the reaſon. *Qui pauperum eſt depreſſor manifeſte, & totius Communitatis & patriæ publicus inimicus*, An oppreſſor of the poore, and an enemy of the countrey, and hereby the

1 Conviction is a grievous amerciament.
2 Iudgement of the Pillorie.
3 Incarceration and redemption.

4 Abjuration of the Towne.

And the like against those that should counsell or countenance them, and it was to be inquired, if any Steward or Bayliffe, did for any reward remit the judgement of the pillorie, by which it is plaine, that Stewards of Leets had power to inquire of this offence.

By the Statute of 25 *Ed.* 3, *cap.* 3, all forestallers of Wines, and all other victualls, wares, and marchandizes, that comes to the townes of *England* by land or by water, being attainted at the Kings suit by indictment, or in any other manner, shall forfeit to the King the things forestalled, if they were full bought, But if agreement were only made by earnest, then the value of the things so forestalled, and two yeares imprisonment or more, at the Kings will, if the buyer had not whereof to pay it.

By all those lawes it was not perfectly known what person should bee taken for a forestaller, *&c.* and therefore a full declaration was made by the latter Statute of 5 *Ed.* 6. 14.

These Monopolists of late yeares, began to swarme and muster themselves against the Common weale, and in time like the frogs of *Egypt*, would have over-run *and covered the whole land*, and without a scarcitie would have brought a dearth amongst us, if his now Royall Majestie by his Proclamation, orders and directions, Dated 28. *December*, 1630. afterwards put in execution against some principall

pall ingroſſers of corne and graine by two ſeverall cenſures and decrees, in the high court of Starchamber, *Mich.* 7. *Car.* had not miniſtred a timely prevention, by which directions a ſtrict inquirie of Foreſtalles and Regrators is required in a Court Leet.

There follow ſeverall ſorts of fraudes, deceipts, and conſpiracies, as well in making, ſelling, and utrering of victuall and wares, which concerne the alimony and ſuſtenance of the body, as alſo in trades of mercimony, and manufacture, and in artificers and labourers, all which are inquirable at Leets.

Aſsize of Bread.

BRead is the principall of all kinde of victuall, it is the *ſtaffe of life*, and the life of the poor, in *ſacred Scripture* the commination of famine, is denounced by breaking the *ſtaffe of bread*, *Levit.* 26. 26. If therefore any Baker ſhall make and put to ſale any bread which is not of good and ſufficient weight and aſſize, according to the rate and prices of corne and grain, in the markets adjoyning, or is not wholeſome for the bodie of man.

Brew-

Brewers and Tiplers.

IF Brewers and Tiplers do not keepe and obſerve the aſſize of ale and beere, and make it good and wholeſome for the body of man, or do refuſe to ſuffer their Ale and Beer to be aſſayed an taſted by the officer, on that behalf appointed, before they ſet the ſame to ſale To the end he may be the better directed where to ſearch, Every licenſed Tipler ought to have a Buſh or aleſtake at his doore.

Cups, Glaſſes.

IF any Tiplers ſell by glaſſes, cups, or diſhes, or any meaſure which are not of due aſſize, and lawfully ſealed, whereby the poore labourer and wayfaring paſſenger, (for whoſe reliefe and comfort ſuch perſons are allowed to tipple) bee ſcanted and defrauded.

By the ancient Law of *Iudicium Colliſt.* 51. *Hen.* 3, before mentioned, If a Baker or Brewer be convict for not obſerving the aſſize of bread and ale, the firſt ſecond and third time, he ſhall bee amerced according to his offence, if it bee not overgrievous, but if it be grievous and often, *Si grave fecerit delictum & pluries, & caſtigari noluerit, tunc patiatur judicium corporis (ſcil.) Piſtor collistrigium, & braſiatrix trubicetum vel*

vel caſtigatorium, A Baker to the Pillorie, and a brewer to the Tumbrell, or other correction, *&c.*

Butchers, *&c.*

IF any Butchers, Fiſhmongers, Regrators, Hoſtlers, Brewers, Bakers, Pulters, or any other ſellers of any manner of victuall, doe not ſell the ſame for reaſonable prices, having regard to the prices in the places adjoyning, ſo that the ſame ſellers have moderate gaines and not exceſſive, reaſonably to be required (according to the diſtance of the place from whence the ſaid victualls be carried) ſhall pay double for the ſame to the partie damnified, or in default of him, to any other that will purſue on this behalfe. 13 *Ed.* 3. 6. 13 *Edw.* 3 6.

Victuallers.

BY the Statute of 13 *Ri.* 2. 18. For victuallers, it was accorded, that they ſhould have reaſonable gaines, according to the diſcretion and limitation of the Juſtices and no more, upon paine to be grievouſly puniſhed, according to the diſcretion of the ſaid Juſtices, where no paine was limitted in certaine before that time; and that Sheriffes, Stewards of franchiſes, and all others that have aſſize of bread and ale, and the correction thereof, ſhall take no amerciament or fine for 13 *Rich.* 2 18.

for any default, touching the assize, to spare any bodily punishment.

In the time of *Edw.* 4. certain persons for their owne profit, did procure Letters Patents of the King to be surveyors and correctors of victuals, within certaine Cities, Boroughs, and other places, and by pretence thereof did commit diverse extortions and oppressions, to the dammage of the people, and derogation of liberties and franchises, which Letters Pattents by the Statutes of 12 *Edw.* 4. *ca.* 8. were made void.

But for that the dearth and plentie of Cheese, Butter, Capons, Hens, Chicken, and other victualls, necessarie for mens sustenance, were many times inhaunsed and raised by the covetousnesse of the owners, by occasion of ingrossing and regrating the same, It was 25 *H.* 8, *cap.* 2. provided, that upon complaint of any such inhaunsing, the Lord chancellor of *England*, and others therein named, should have power to set and taxe reasonable prices upon such kind of victualls, to be sold in grosse or by retaile, and Proclamation to bee thereof made under the great Seale, and those prices so taxed to be observed upon such paines as by the said Proclamation should be declared.

25 *Hen.* 8 *cap.* 2

But this Act should not be hurtfull to Maiors, Sheriffes, Bailiffes, or other officers of Cities, Boroughs, or Townes-corporate, nor to any other having authoritie to set prices, *&c.*

Nota, the power of a Leet is not abridged by any of these Statutes, but rather declared and explained.

Horse-

Horſebread, &c.

IF any Baker in any Citie, Towne corporate, or Market towne, ſhall make or ſell any Horſebread, which is not of lawfull aſſize, and reaſonable weight, after the price of Corne and Graine in the market adjoyning. 21 *Jac.* 21

Or if any Hoſtler or Inholder, dwelling in any Citie, &c. ſhall make horſebread in his hoſterie or without.

Or ſhall not ſell their horſebread, and their hay, oates, beanes, peaſe, provender, and all kinde of victuall, both for man and beaſt, for reaſonable gaine, having reſpect to the prices in the markets adjoyning, without taking any thing for litter.

Or if any Inholders or Hoſtlers, dwelling in any throughfare, towne, or village, (being no citie, towne corporate, or market-towne, where any common Baker having beene an apprentice at that trade by the ſpace of ſeven years is dwelling) who may by this Statute make horſebread in his houſe, ſhall not make it ſufficient, lawfull, and of due aſſize, according to the ſaid prices of graine and corne, Or ſhall offend in any thing contrary to this act.

All ſtewards of Leets have power to enquire, heare, and determine all the ſaid defaults and offences of the ſaid Hoſtlers and Inholders. And the puniſhment to be inflicted, is for the

1 Offence to be fined according to the quantitie of the offence.

2 Conviction, impriſonment for one moneth without baile, *&c.*

3 To ſtand in the pillorie without redemption of money.

4 After judgement of the pillorie given, hee ſhall be forejudged from keeping any Inne againe.

Unwholeſome or corrupt Victuall.

IF any Butchers, Fiſhers, or other Victuallers, do ſell any manner of corrupt victuall, not wholeſome for the body of man.

If any butcher ſhall ſell *carnes ſuſtentatas vel de morte morina*, any contagious fleſh, or that dyed of the murrain, 51 *Hen.* 3. Or ſhall kill and ſell the fleſh of any Bull unbaited, or of any cattle killed ſuddainly upon the drift, or with their breath doe puffe and blow up meat, whereby it prooves deceitfull in the ſale, and may bee unwholeſome, it is preſentable.

Flawing of Hides, *&c.*

1 *Iac. ca.* 22. NO Butcher by himſelf or by any other perſon, ſhall gaſh, ſlaughter, or cut any hide, of any Oxe, Bull, Steere, or Cow, in flaying thereof or otherwiſe, whereby the ſame bee impaired or hurt, under paine of 20 pence for every hide ſo gaſhed, *&c.* 1 *Iac. c.* 22.

No

No Butcher ſhall water any hide (except only in the moneths of Iune, Iuly, and Auguſt) nor ſhall offer or put to ſale any putrified or rotten hide, upon paine of every hide ſo watered, putrified and offered to be put to ſale, three ſhillings foure pence.

Calves under five weekes old.

NO Butcher or other perſon or perſons ſhall kill any Calfe to ſell being under five weeks old, upon paine for every Calfe ſo to be killed and ſold, ſix ſhillings foure pence.

No Butcher ſhall by himſelfe or any other perſon uſe the craft or myſterie of a Tanner, during the time that he ſhall uſe the craft of a butcher, upon paine for every day ſix ſhillings eight pence.

Cookes.

INquirie is to be made of Cookes that ſeeth fleſh or fiſh, with bread or water, or any otherwiſe, that is not wholeſome for mans bodie, or after that they have kept it ſo long, that it loſeth its naturall goodneſſe (*debitam naturam*) and then reſeeth it and ſell it, 51 *Hen.* 3.

Malt-maker.

THe Maltmaker (the only Syre of an unruly Alehouſe, by his exceſſe in making of too much, 21 *Edw.* 6. 10 revived 27 *Eliz.* 14.

Continued 1 *Iac.* 25, Continued 21 *Jac.* 28, Continued 3 *Car.* 4.

much, and his ſlights and deceipts in his haſty making of bad and corrupt malt, is, as ill a member as any, his frauds and ſlights are in the preamble of this Statute deſcribed to be ſuch in the making and drying of his malt, that no wholeſome drinke for mans bodie could bee thereof made, to the perill and danger of his Majeſties ſubjects, the loſſe and decay of the Common wealth, and the utter impoveriſhment of Brewers, for that they could not make ſo much of fifty quarters of malt, being evill dryed and made, as they could of forty good.

If therefore any perſon ſhall make any barly malt (the moneths of Iune, Iuly, and Auguſt only excepted) but that it ſhall have in the Fat and Floore, ſteeping and ſufficient drying thereof three weeks at the leaſt, and in thoſe moneths 17 dayes at the leaſt (without which it cannot bee wholeſome for mans body) ſhall forfeit for every quarter of Barly malt, two ſhillings.

Or if any ſhall mingle any malt not being well and ſufficiently made, or being made of mow-burnt or ſpired barlie with other good malt, and put the ſame to ſale, ſhall forfeit for every quarter, two ſhillings.

If any perſon ſhall put to ſale, any malt not ſufficiently and well trodden, rubbed and fanned whereby there may bee conveniently fanned out of one quarter thereof, halfe a peck of duſt or more, every ſuch perſon ſhal forfeit and loſe for every quarter ſo put to ſale twentie pence.

One

One moitie of thoſe forfeitures, are to accrew to the King, and the other to the partie that will ſue for the ſame, to be ſued or preſented within one yeare.

Of theſe abuſes every Steward of Leets hath power to heare, and determine, aſwell by preſentment of twelve men, as by accuſation or information of two honeſt witneſſes, and the Bailiffes and Conſtables of every borough, market towne, or other towne, where ſuch malt ſhal be made or put to ſale within any of the ſaid townes, and finding the ſame, with the advice of one Iuſtice of peace, ſhall cauſe the ſame to be ſold at reaſonable prices, and under the price of the market, as to his diſcretion ſhall ſeeme expedient.

Millers.

IF any Miller take exceſſive tole, he ought to take but the twentieth or twenty fourth grain according to the cuſtome of the place, and to the ſtrength of the water, or if hee changeth or altereth the graine which he hath to grinde, preſentable.

Conſpiracies in Butchers.

IF any Butchers, Brewers, Bakers, Poulters, Cookes, Coſtermongers, or Fruiterers, not contented with moderate and reaſonable gaine, *2,3 Ed. 6.c.15.*

ſhall

ſhall conſpire, covenant, promiſe, or make any oathes to ſell their victuals but at certain prices.

Or if any artificers, workmen, or labourers, do conſpire, covenant, *&c.* not to make or doe their workes but at a certaine price and rate, or ſhall not enterpriſe or take upon them to finiſh, what another hath begun, or ſhall doe but certaine worke in a day, or ſhall not worke but at certaine houres and times.

Every perſon ſo offending being lawfully convicted thereof, by witneſſe, confeſſion, or otherwiſe, ſhall forfeit as followeth.

1 Offence, ten pound to the King (if he have to pay) within ſix dayes after his conviction, or twenty dayes impriſonment, with bread and water for his ſuſtenance.

2 Twenty pound to the King (if he have to pay) within ſix dayes, or elſe the puniſhment of the Pillorie.

3 Forty pound *&c.* payable within ſix dayes, or elſe to ſit in the Pillorie, loſe one of his eares, and at all times after to bee taken for a man infamous, and his oath not to be credited in any matters of judgement.

And if ſuch conſpiracie *&c.* be had and made by any ſocietie, brotherhood, or company of the victuallers above mentioned, with the preſence or conſent of the more part of them, that then immediately upon ſuch act of Conſpiracie, covenant or promiſe, over and beſides the particular puniſhment, before appointed for the offender,

der, their corporation ſhall be diſſolved to all intents, conſtructions, and purpoſes.

Falſe weights and meaſures.

IF any keepe and uſe any falſe meaſures of buſhels, gallons, ells, yards, or falſe weights, ballances and pounds.

Double weights. *&c.*

OR if any uſe double weights and meaſures, the greater to buy with, and the leſſer to ſell with, to deceive the people, in *Mag. Car.* c. 26. one ſpeciall branch for the uniformitie of weight and meaſure, is in theſe words, *S. Vna ſit menſura vini per totum Regnum noſtrum, una menſura cerviſiæ, una menſura bladi, et de ponderibus ſicut de menſuris*, Alſo by the foreſaid Stature of 51 *Hen.* 1. It was to be inquired, if any ſold by one meaſure, and bought by another, or if any did uſe falſe ells, weights, or meaſures, which was confirmed and inlarged by 27. *Ed.* 3. 10.

It is Gods law injoyned by *Moſes* unto the people, *You ſhall doe no unrighteouſneſſe in judgement in mete yard, in weight or meaſure, juſt ballances, juſt weights, a juſt ephah, and a juſt hinne ſhall yee have Levit.* 19. *verſ.* 35. 36.

Wynes.

Wines.

7 Ed. 6. c. 5. THe Statute of 7 *Ed.* 6. *ca.* 5. intituled an *Act made to avoid the great and exceſsive prices of wines*, for ſo much as doth concerne the prices of wines, or the reſtraining of having wines in mens houſes is repealed 1 *Iac.* 25.

But no perſon ſhall keepe any Taverne, or ſell or utter by retaile, by the gallon, or leſſe, or greater meaſure in any place, any *Gaſcony*, *Guyon* or *French*, nor any *Rochel* wines, nor any other wine or wines, in any place, except it be in cities, townes corporate, Boroughs, Port townes, or Market townes, or in the townes of *Graveſend*, *Sittingborne*, *Tuxford* and *Bagſhot*, upon paine to forfeit for every day ſo offending ten pound.

No perſon ſhall ſell wines by retaile in any Citie, borough *&c.* unleſſe he be aſſigned by the head officers, and the moſt part of the common Counſell, Aldermen, *&c.* for the time being of ſuch City, *&c.* by writing under the common ſeale.

Nor in any Citie or towne *&c.* not corporate, or in the townes of *Graveſend*, *Sittingborn* or *Bagſhot*, unleſſe he be appointed by all or moſt part of the Iuſtices of peace of that Shire, at the generall Seſſions of the peace, by writing under their ſeverall ſeales, under paine for every day five pound.

And if any having authoritie, *&c.* ſhall nomi-

minate and appoint, more or greater number of Taverners, or Wine-ſellers, than by the Statute is limited to be aſſigned in ſeverall places, ſhall forfeit for every ſuch nomination or appointment five pound.

And none ſhall ſell or retaile any kinde of wines to be drank or ſpent in his manſion houſe or other place in his tenure or occupation, by any colour, craft, engine or meane, upon paine to forfeit for every ſuch offence ten pound.

The Steward in every Leet and the Sheriffe in his Tourne (*inter alia*) have power to enquire by the oathes of twelve lawfull men, of all offences done contrary to this Act, and every inquirie and preſentment ſo taken, ſhall be of ſuch force, as if it were had or taken in the Kings bench, and the foreſaid penalties upon any ſuch preſentment (and no bill, plaint, action or information thereof commenced in any the Courts of Record) ſhall bee divided equally in two parts, whereof one to bee to the King, and the other to the poore of the towne or place, *&c.*

To bee ſued, preſented &c. within one yeare.

Deceits in Tradeſmen.

IF any Tradeſman or Artificer whatſoever, doth uſe any fraud, ſhift, ſlight, or deceit in the making of his and their ware and chaffer,

and doe not make the same as they ought wherby the people are deceived.

Learned *Lynwood, titul. de hæreticis ca. finaliter*, sets forth seven sorts of Mechanick arts or trades, and in the first sort he rankes all those *qui circa pilos et lanam, pelles et carnes operantur*, those that meddle with haire or wooll, hide or flesh, amongst whom are butchers, Tanners, Curriers, Shoomakers, or Cordwayners, and others cutting of Leather, all comprized in the Statute of 1 *Iac. ca.* 22. the butchers I have singled out already in their due place.

Clothmakers and Labourers thereof.

IN the occupations of Clothmaking the labourers thereof were driven to take a great part of their wages in pinnes, girdles, and other unprofitable wares, and had delivered unto them woolls to be wrought by very excessive weight whereby both men and women were discouraged of such labour. It was therefore ordained,

That all clothmakers should pay to the carders, spinsters, and all other labourers in any part of that trade lawfull mony for all their lawfull wages.

And should also deliver woolls to be wrought according to the faithfull deliverie, and due weight thereof, upon paine to forfeit to every labourer,

Repealed 5 Eliz. 4.

The treble value of the wages so not paid.

And for every default in deliverie of excessive and unlawfull weight six pence.

That every carder, spinster, weaver, fuller, shereman and dyer shall duely performe his dutie in his occupation, upon paine of yeelding to to the partie greeved double dammages.

That every fuller in his craft of fulling, tasselling, or rowing of cloth, shall exercise and use tazels and no cards deceitfully impairing the same cloth, upon pain to yeeld to the partie grieved double dammages.

Every Steward of Wapentakes and Leets (out of any citie, borough or towne, where no Mayor or chiefe officer is) shall have power to heare and determine the complaints of every clothmaker and labourer, by due examination of the parties, and for non-payment of the said duties forfeiture and dammages, to commit the offenders to the next Gaole, there to remaine untill they pay the same.

And shall also have power upon information of any other person which is not grieved, to cause the partie to come before him, for offending this ordinance, and if upon examination or other due proofe the partie be found guiltie or defective, he shall forfeit for every time to the King or Lord of the Leet three shillings foure pence to bee recovered in manner aforesaid, without paying any fee of reward.

Tanners. Who may bee a Tanner.

1 *Jac.* c. 22

NO person shall tanne any leather, or use, or have any profit of or by the said mystery, unlesse he had a Tanhouse at the beginning of that Parliament And except such as have beene or shall be brought up as apprentises, or covenant and hired servants, by the space of seven yeares in that mysterie, and except the wife and such sonnes of a Tanner, as hath beene brought up, and used the said trade by the space of foure yeares, or the sonne or daughter of a Tanner, or such person who shall marrie such wife or daughter, to whom he hath or shall leave a Tanhouse and fats, upon paine of forfeiture of all the leather so tanned, or whereof hee shall receive any profit, or the just value thereof.

No Tanner shall use the mysterie of a Shoomaker, currier, burcher, or any other artificer, useing, cutting, or working of leather; upon paine to forfeit all the Hides and Skins so wrought, or the value thereof.

None shall buy, contract for, or bespeake any rough Hide or Calves skin in the haire, but only Tanners, or tawers of leather, except salt hides, for the necessarie use of ships.

Forfeiture of the Hides and skins or the just value.

None shall forestale any Hydes comming towards any faire or market, nor buy any hide

but

but in open faire or market unleſſe it be the hyde of a beaſt killed for a mans owne private proviſion.

Forfeiture for every hyde ſo bought ſix ſhillings eight pence.

This Law provides againſt the inſufficient tanning and drying of leather, and ſo much as ſhall not be throughly tanned or dryed, to bee cut out by the overſight and direction of the tryers and ſearchers, *&c.*

None (to overhaſten the tanning of their leather) ſhall ſet their fats in tanhills or other places where the woozes or Leather may take any unkinde heats, nor put any leather into any hot or warme woozes, nor tan any hides, calve skin or ſheeps kin with any warme woozes upon paine

For every offence ten pound, and to ſtand upon the Pillorie three ſeverall market dayes.

This law gives remedie againſt regrating and ingroſſing of Oken barke before it be ſtripped, or after to ſell the ſame againe upon paine,

To forfeit all ſuch barke, or the value thereof.

Curriers.

Curriers.

NO Currier ſhall exerciſe the myſterie of a tanner &c. or other artificer, uſeing cutting of leather during the time he ſhall uſe the myſterie of a Currier upon paine,

To forfeit for every hide or skin ſix ſhillings eight pence.

He ſhall not curry any leather in the houſe of any Shoomaker or other perſon, but only in his owne houſe, ſcituate in a corporate or market Towne.

Nor ſhall curry any kinde of leather (except it be well and perfectly tanned) nor any hyde or skin being not throughly drie after his wet ſeaſon, in which ſeaſon he ſhall not uſe any ſtale, urine, or any other deceitfull mixture, way, or meanes to corrupt or hurt the ſame.

Nor ſhall currie any leather meet for utter ſole-leather with any other ſtuffe than hard tallow, nor any leſſe of that than the leather will receive.

Nor any kind of leather meet for over leather and inner ſoles, but with good and ſuffreient ſtuffe, being fresh and not falt, and throughly liquored, till it can receive no more.

Nor ſhall burn or ſcald any hide or Leather in the currying, nor ſhall ſhave any Leather too thin, nor ſhall gash or hurt any leather in the ſhaving or by any other meanes, upon paine

To forfeit for every offence (other than in gash-

gashing, or hurting in shaving) ſix shillings eight pence, and the value of every skin and hide marred by evill workmanship.

And for every offence in gashing &c. double ſo much to the partie grieved, as the Leather shall be impaired thereby, by the judgement of the Wardens, &c.

That the leather to be brought by any artificer which is or shall be a cutter of leather, or by his ſervant, with good and ſufficient ſtuffe to liquor the ſame, shall be liquored and curried perfectly with convenient ſpeed not exceeding eight dayes in ſummer, and ſixteene dayes in winter, after it be taken in hand upon paine

To forfeit to the partie grieved for every hide and peece of leather not well and ſpeedily dreſſed ten ſhillings.

Cordwayner or Shoomaker.

NO ſhoomaker ſhal make or cauſe to be made any Bootes, ſhoos, buskins, ſtartups, ſlippers or pantoffles, or any part of them of Engliſh leather wet curried (other than Dearskins, Calve skins or Goat skins, made or dreſſed like unto Spaniſh leather) but of leather, well and truly tanned, and curryed in manner aforeſaid; or of leather well and truly tanned only, ſubſtantially ſewed with good thread, well twiſted and made with wax, well raſonned, and the ſtitches hard

hard drawne with hand leathers, without mingling over leathers, *viz.* part of the over leather being of Neats leather, and part of Calves leather.

Nor ſhall put into Shooes, Boores, &c. any ſheeps-skin, bull or horſe-hide-leather, nor into the upper leather of any ſhooes, ſtartupps, or pantoffles, or into the nether part of the bootes (the inner part of ſhooes only excepted) any part of any hide, called the wombes, neckes, ſhank, flank, powle, or cheeke.

Nor ſhall put into the utter ſole any other leather, than the beſt of the oxe or ſteere hide, nor into the inner ſole any other leather than the wombes, necke, powle or cheeke, nor in the treſwels of the double ſoled ſhoes, other than the flankes of the hides aforeſaid.

Nor ſhall make or put to ſale, in any yeares betweene *ultimo Sept.* and 20. *Apr.* any ſhooes, bootes, &c. meet for any perſon to weare exceeding the age of foure yeares, wherein ſhall be any dry Engliſh leather, other than Calve or Goatskins made or dreſſed, like unto Spaniſh leather, or any part thereof.

Nor ſhall ſhew, to the intent to put to ſale, any bootes, ſhooes, &c. upon the Sunday, upon paine

To forfeit for every paire of ſhooes, bootes, &c. made, ſold, ſhewed or put to ſale, contrary to this act, three ſhillings foure pence, and the juſt and full value of the ſame.

Searchers

Searchers and Sealers.

ALL Mayors, Bayliffs &c. and all Lords of liberties, faires or markets, out of the compaſſe of three miles of London, ſhall upon paine of forty pound (whereof one halfe to the King, the other to the partie that will ſue for the ſame) for every yeare that they make default, ſhall yearely appoint and ſweare, two, three, or more ſufficient and skilfull men to be ſearchers and ſealers of leather within their limits, and one of them ſhall keepe a marke or ſeale prepared for that purpoſe, and ſhall ſeale ſuch leather as they finde ſufficient and none other.

That it ſhall be lawfull to any of them to ſeiz all ſuch leather and ware as ſhall be inſufficiently tanned, curried, made, or wrought contrary to any proviſion in this act, and ſhall retaine the ſame, untill it be tryed as hereafter is mentioned, *viz.*

That every ſuch Mayor, *&c.* or Lord of libertie, or his ſufficient deputie, after notice given to him of any ſuch ſeiſure, ſhall with all conveniient ſpeed, appoint ſix honeſt and expert men, to trie whether the ſame wares ſo ſeized be ſufficient, according to the intent of this Statute or not, the ſame tryall to be made openly upon ſome market day, within fifteene dayes at the fartheſt, next after ſuch ſeiſure, upon the oaths of the tryers.

To forfeit for not appointing such tryers, five pound.

The tryers if they doe not proceed and doe their duties therein without delay, doe forfeit for every default five pound.

Every searcher and sealer of leather which shall refuse with convenient speed to seale any lawfull leather, shall for every such offence forfeit forty shillings.

For receiving any bribe, or exacting any fee for execution of his office, (other than is limited by the statute, for searching, sealing, and registring of leather) 20 pound.

For refusing after election to execute the office 10. pound.

Stewards of Franchises and Leets have power to heare and determine all the offences against this Act, and also by their discretions to examine all persons suspected to offend this Statute, or any parcell thereof.

Cloth-makers, Fullers, Sheeremen, Taylers, Shoomakers.

3, 4 Ed. 6, 22. IF any of those trades shall retaine to worke in any of their trades any unmarried person as a journeyman to worke by the day, or taile work, or by the great, for any lesse time, than for one whole quarter of one whole yeare, the person or persons offending, shall suffer imprisonment for one

whole moneth, and forfeit forty ſhillings for every offence.

If any Iou rneyman of any the ſaid myſteries being required by any perſons uſeing the ſaid trades, or any of them to ſerve by the quarter of a yeare, halfe a yeare, or whole yeare, upon ſuch reaſonable wages, as betweene them ſhall bee agreed, and in caſe they cannot accord, then for ſuch wages as ſhall be adjudged and decreed, by one Iuſtice of peace, Maior, Alderman, Bailiffe, Portreeve, Conſtable or Tethingman of the Shire, Citie, Towne, Borough, Village, Hundred, Wapentake, or Tything, where any ſuch journeyman ſhall be required, and ſhall refuſe to ſerve, ſhall ſuffer impriſonment for one whole moneth, and forfeit for every time 20. ſhillings.

This is fully repealed, by 5. *Eliz.* c. 4.

All and every the ſaid Tradeſmen that ſhall have three apprentiſes in any of the ſaid occupations, ſhall keepe one Iourneyman, and for every other apprentiſe, above the number of three, one other Iourneyman, upon paine of every default ten pound, the one halfe to the King the other to the partie that will ſue for it.

All Stewards of Leets (*inter alios*) hath power to punish and correct all and every offenders, contrary to the tenour of this, according to ſuch preſentments as ſhall bee made before them.

The ſecond Mechanicke art of M. Linwoods *diviſion is* Armatura, *and* Sub hac arte (*ſaith he*) continetur ars Sagittariorum & Baliſtariorum. *And they fitlie ſucceed here, to be inquired of in their due order.*

Artillerie.

33 H.8.c.9. FOr maintenance of *Sagittarie* Diſcipline (an exerciſe famous and honourable to this Kingdome for many victorious battels) and for debarring and repreſſing of unlawfull games, the Statute of 33. *Hen.* 8. *ca.* 9. was ordained, which provideth, that ſuch as be of tender age, bee brought up in the knowledge of Shooting, and every perſon ſhall provide and have in his houſe, for every man child of the age of ſeven yeares and above, till hee come to the age of ſeventeene yeares, a bow and two ſhafts to learne and induce them, under paine (if they want them one moneth together) of ſix ſhillings eight pence, incurred againſt the maſter.

After ſeventeene yeares every ſuch young man ſhall provide a bow and foure arrowes at his owne coſt, and if under threeſcore yeares taking wages, and being able to ſhoot, hee ſhall want a bow and foure Arrowes by the ſpace of one moneth together, ſhall forfeit for every ſuch default ſix ſhillings eight pence.

No

No man under the age of 24. yeares ſhall ſhoote at a ſtanding pricke, except it be at a rover, whereat he ſhall change at every ſhoot his marke, upon paine for every shoot foure pence.

Nor at any marke of eleven ſcore yards or under, with any prick, ſhaft, or flight, under pain of ſix shillings eight pence for every shoot.

That Butts shall bee made in every Citie, Towne and place by the inhabitants, according to the Law of ancient time uſed, and maintained and continued by them, upon paine for every three moneths 20 shillings.

Stewards of Leets have power to heare and determine the offences, and at their diſcretion, to examine all perſons not having bowes, shafts and arrowes.

Unlawfull Games.

THis good Law, as it injoynes a lawfull, ſo it inhibiteth an unlawfull exerciſe, eſpecially unlawfull games, which are ingendred and nurſed by idleneſſe, the mother of all vice, the bane of youth, decay of trades, and ruine of all common weale. It is therefore enacted, *Admue. 23. H 8. c. 9.*

That none for his gaine and lucre, shall keepe or maintaine any common houſe, alley, or place of Bowling, Tennis, Dicing, Carding, or any other manner of game prohibited by any Statute, nor any hereafter to be invented, found or had

had upon paine for every day 40. shillings.

Every person haunting any of the said houses and places, and there playing, forfeiteth for every time, six shillings eight pence.

All Constables and Bailiffes, *&c.* shall make search every moneth for unlawfull games, as well within franchises as without, or in default thereof, they forfeit for every moneth not executing the same forty shillings.

No artificer, husbandman, handicrafts man, apprentise, journeyman, or servant of artificer, marriners, fishermen, waterman, or any servingman, shall at any time play, at any the said unlawfull games but onely in the time of Christmas, servants to play in their masters houses, and in their presence.

No person shall bowle in any open place, out of their garden or orchard, upon paine of six shillings eight pence.

But noble men, and every one that may dispend in lands or other profits to the yearely value of an hundred pound, may permit their servants and others comming to their houses, to play within the precincts of his houses, gardens or orchards, at cards, dice, tables, bowls, or tennis, and shall not incurre the penaltie of this Statute.

The forfeiture happening within the precinct of any franchise or Leet, the one moyetie shall be to the Lord, the other to the party, that will sue for the same by any action, *&c.*

and

and out of the libertie of a Leet, the one moietie to be to the King, &c.

Handguns and Crosbowes

FOr that diverſe malicious and ill diſpoſed perſons did ſhamefully commit diverſe deteſtable murthers, robberies, felonies, riots and routs with croſſebowes, little ſhort handguns, and hagbuts, to the great feare and danger of his Majeſties Subjects: And the laudable exerciſe of the long bow was lately laid apart, which had beene the ſafe guard and defence of the Realme and an ineſtimable dread, and terrour to the enemies of the ſame. 33 H.8.c.6.

It was ordained, That no perſon unleſſe hee could diſpend in lands or other profits, an hundred pound *per annum*, ſhould ſhoot in any croſſbow, handgun, hagbut, or demihauke, or keepe any in their houſes or elſewhere, upon paine for every time 10. pound.

Nota, S. *Iohns* Caſe *Co. l. 5. fo.* 71. It was adjudged that a dagge and piſtoll were comprehended under the word (handgunne) though not expreſly mentioned, and that ſtonebowes were prohibited aſwell as croſſbowes.

No perſon ſhall ſhoot in, carry, uſe, or have in his houſe or elſewhere any handgun, other than ſuch as ſhall be in the ſtocke and gunne the length

length of one yard, nor any hagbut, demihauke, other than ſuch as ſhall be in ſtocke and gunne three quarters of a yard, upon pain of ten pound.

Every perſon having lands, fees, annuities, or offices of the yearly value of an hundred pound, may ſeize and take every ſuch Croſſebow, and keepe it to his owne uſe, and alſo ſeize every ſuch handguns, *&c.* being shorter than before is appointed, and to breake and deſtroy the ſame within 20 dayes after ſuch ſeiſure, upon paine of forty shillings for every gunne ſo ſeized and not broken,

No perſon vnleſſe he have an hundred pound *per annum* (as aforeſaid) ſhall carry or have in his journey, in the King his high way, any croſſbow bent, or gun charged, except it be in time and ſervice of war, upon paine of ten pound.

None ſhall ſhoot in any handgun *&c.* at any thing at large, in any citie, borough, or market towne, or within a quarter of a mile of any of them (unleſſe at a butt or bank of earth, in place convenient, or for defence of his perſon, or houſe) upon pain of ten pound for every ſhoot.

If any maſter command his ſervant to ſhoot in any croſſebow, handgun, *&c.* at any deere, fowle, or other thing, except it be at a banke or butt of earth, or in the time of war, he ſhall forfeit 10. pound.

But ſome perſons for exerciſe, and ſome places for defence, and other purpoſes, are diſpenſed with by the Statute for uſeing and keeping of handguns *&c.*

Stew-

Stewards and Bayliffes of Leets have power to enquire, heare, and determine all the offences, ſo that no leſſe than ten pound fine, be aſſeſſed upon every preſentment and conviction.

The one moietie of every fine to be paid and levied to the uſe of the King, and the one halfe of the other moietie to the Lord of the Leet, and the other half to the partie that will ſue for it by action, *&c.*

A ſecond Iury to enquire of the concealements of the firſt, and if any concealements bee preſented, every of the firſt Iury to forfeit twenty ſhillings, one moietie to the Lord by diſtreſſe or action of debt, the other to the partie that will ſue, *&c.*

Other Lawes here inquirable, which concerne the preſervation of Frye of Fiſh, and of certaine Fowle and beaſts of Warren, as Pheſant, Partridge, Hare, and Conies, and ſome beaſts of chaſe, as Deere.

Fry of Fiſh.

1 *Eliz.* 18. Made perpetuall 3 *Car. Reg. c.* 4. except the proviſo for the River of *Tweed &c.*

THe preamble of this Statute ſets forth the deſtruction of ſpawne, fry, and young breed of fiſh in rivers and ſtreams, ſalt and freſh, inſomuch as in divers places ſwine and dogs were fed therewith, to the hinderance and decay of the common wealth.

It was therefore enacted, that none ſhould take and deſtroy any young brood or fry of fiſh, in any waters, brookes, ſtreames, or rivers, ſalt or freſh, with any manner of net, or any wayes or meanes whatſoever, nor take or kill any Salmons or Trowts out of ſeaſon, being kepper or ſhedder Salmons or Trowts.

None ſhall take in any rivers or places aforeſaid any Pickerell, not being in length 10 inches

fiſh

fiſh or more, Salmon 16. inches fiſh and more, Trowte 12. inches or more, Bartell 12. inches or more.

None ſhall take any fiſh with any manner of net, trannell, or any other engin or device (angling excepted) but only with net, or trannell, whereof every meſh ſhall be two inches and half in breadth.

But where ſmelts, loches, mynnetts, bulhead, gudgions and eles have uſed to bee taken, it ſhall be lawfull to uſe any ſuch nets and meanes, as had beene thentofore uſed for that purpoſe, ſo as no other fiſh be taken, killed or deſtroyed therewith.

The forfeiture for every time is 20. ſhillings, the fiſh taken, and the nets, trannels, *&c.* to be to the uſe of the Lord of the Leet for ever, and to be levied, as amerciaments for affraies in Leets have uſed to be.

Steward of Leets to give theſe offences in charge, or elſe to forfeit 40. ſhillings, and he may impannell a ſecond Iurie, to enquire of the concealments of the firſt Iury, and if any concealements bee found, every of the firſt Iury ſhall forfeit to the Lord of the Leet 20 ſhillings, to be levied as before.

This Statute is perpetuated 3. *Car.* 4. except the proviſo for the River of *Tweed, &c.*

Pheſants and Partridges.

3 Eliz. 10.

THis Statute was made to prevent the deſtruction of the game of Pheſants and Partridges, by taking of them by day and night with nets and other engins.

As alſo the ſpoile of corne and graſſe, by untimely hawking, in the beginning of harveſt.

None therefore ſhall take, kill, or deſtroy any Pheſants, or Partridges, with any nets, engins, or other devices whatſoever in the night time, upon pain of forfeiture for every Pheſant twenty ſhillings, every Partridge ten ſhillings, to be paid within twenty dayes after conviction.

Or upon nonpayment, to have one moneths impriſonment, and to be bound by ſome Iuſtice of peace for two yeares, never to deſtroy any ſuch game, contrary to this Act.

The moietie of the penaltie to be to the Lord of the libertie, and the other halfe to him that will ſue, *&c.* and if the Lord ſhall diſpence with licence, or procure any ſuch taking or killing, *&c.* then ſuch penalties to bee to the poore of the pariſh, to be levied and recovered by the Churchwardens or any of them.

None ſhall Hawk or Hunt with Spaniels in any ground where Corne or other graine ſhall then grow (except his own ground) when any eared or codded corne, or graine is ſtanding, before

fore it ſhall be ſhocked, cocked, hiled or copped, upon paine of 40. ſhillings to the party grieved, unleſſe he conſent to it, to be levied and recovered in manner aforeſaid.

Stewards of Leets have power to heare and determine all offences contrary to this Act. This Statute is inlarged 1 *Iac.* 27. and 7. *Iac.* 11.

Tracing of Hares.

FOr preſerving the game of hunting of Hares which was uſed and exerciſed by the King and other noble men. 14 *Hen.* 8. 10.

It was provided, that none ſhould trace, deſtroy and kill any Hare in the ſnow, with any Dog, Bitch, or otherwiſe, upon paine to forfeit to the Lord of the Leet for every Hare, ſix ſhillings eight pence, after inquiſition thereof found by the Steward.

This Statute is much inlarged 1 *Iac.* 27.

Breaking the head of any Pond.

IF any by day or night ſhall breake or deſtroy the head or damme of any pond, poole, mote ſtagnes, ſtewes or ſeverall pits, within which the Lord of the Leet hath fiſh, to the intent to deſtroy, ſteale, and take away the ſaid fiſh, ſhall pay treble dammages to the Lord, ſuffer im- 5 *Eliz.* 21.

imprisonment three moneths, and to finde sureties for the good abearing for seven yeares.

Hunting of Deere.

IF any shall chase out, hunt, or kill any deere, out of any Parke or inclosed ground, kept for storing and cherishing of Deere by the Lord of the libertie, or doe take any Hawkes out of the Lords woods or grounds, shall incurre the same penaltie.

The Statute is generall, extending to the Ponds, Parkes, or inclosed grounds, *&c.* of all persons, and giveth no power expressly to the Leet to enquire of it. But M. *Kitchin* doth direct the inquirie of it, *Quatenus*, it doth concerne the Lord of the Leet.

Greyhounds, *&c.*

TO prevent unlawfull hunting by artificers, labourers, servants, and groomes with Greyhounds and other Dogs, It is ordained, 13. Ri. 2. 13. That none such or any other layman, not having lands, to the value of forty shillings *per annum*, Nor any Priest or Clark, not having lands to the value of 10. pound a yeare, shall keepe any Greyhound, or other dog to hunt.

Nor shall use any Ferrets, heyes or other engins, to take or destroy any Deere, Hares, nor conies

conies nor other Gentlemens game, upon pain of one years impriſonment.

The firſt part hereof is mentioned by M. *Fitzharbert* in his charge of a Court Leet, *fo.* 86. And becauſe there is no power given by this Statute to inquire here of, it is conceived, that it was here inquirable as a popular treſpaſſe or offence at the Common law before this Statute. *Ideo quære.*

Theſe Lawes laſt before cited, are for reformation of abuſes in Hunting, Hawking, and Fiſhing, which M. *Lynwood* in his diviſion of Mechanick arts, doth ſet forth in his fifth ſort called *Ars Venationis*, for though the game be Regall and noble, and prohibited to mean perſons, yet the inſtruments, proviſion and engins incident and belonging to Hunting, Hawking, and Fiſhing, muſt paſſe through the hands of Mechanick perſons.

Other Lawes inquirable for the good of the Common Weale by expreſſe Statutes.

Cottages and Inmates.

31 Eliz. 7. NOne ſhall build or erect any manner of Cottage for habitation, unleſſe he aſſign unto it, foure acres of ground at the leaſt, to bee accounted according to the ordinance *De terris menſurandis*, of his owne freehold, and inheritance, lying neare the ſaid cottage to be continually occupied therewith, ſo long as the Cottage ſhall be inhabited, under paine of ten pound for every offence.

None ſhall willingly uphold and continue ſuch a Cottage, under paine for every moneth 40. ſhillings.

None ſhall place or willingly ſuffer any Inmates, or more families or houſholds than one, in any cottage made, or to be made, upon paine to forfeit to the Lord of the Leet for every moneth ten ſhillings.

But Cottages in Cities, Boroughs, and market townes, or for convenient habitation for workemen within a mile of any minerall workes

w orkes, Colemynes, Quarries, *&c.* are not within this Statute.

Muſters

FOr remedie of abuſes in muſters and the hindrances of due ſervice in warres, It is enacted, That if any perſon ſhall refuſe to come unto publike muſters, and abſent himſelfe without any lawfull impediment or appearing, doe not bring with him his beſt furniture or array and armour, ſhall for every ſuch offence, have 10. dayes impriſonment, unleſſe he pay a fyne to the King of forty ſhillings, to be eſtreated in the Exchequer. 4 & 5 Phil. & Ma. 3.

If any Muſter-Maſter or Commander, ſhall by any meanes exact or take any reward for ſparing, or diſcharging any perſon from his ſervice in the warres.

Or if any Captaine, or other having charge of men for ſervice in the warre, ſhall for any lucre or gaine diſcharge or licence any ſouldier to depart out of ſervice.

Or ſhall not pay unto him his full and whole wages, Conduct, and coat money within 10. dayes after ſuch Captain or leader ſhall have received the ſame,

He ſhall forfeit ten times the value of the reward received,

And pay to every Souldier trebble the ſumme withholden.

Horſes not ſufficient in length.

32 H.8.13. THe generation and breed of good and ſtrong Horſes, doe extend not only to a great helpe for defence of this kingdome, but is a great commoditie to the inhabitants. And therefore it is provided, that no commoner in any Forreſt, Chaſe, More, or Common whatſoever, ſhall have or put to paſture into ſuch ground or Common any ſtinted Horſe, above the age of two yeares, not being fifteene handfuls high, to be meaſured from the loweſt part of the fore foot to the higheſt part of the withers, every handfull foure inches of the ſtandard, upon pain to forfeit ſuch horſe or horſes.

And it ſhall be lawfull to any perſon to ſeize ſuch horſe, and to bring him to the next pound, and to meaſure him in the preſence of three honeſt men, to be appointed by the Conſtable, Tethingman, or other Officer, And if he bee not of that altitude, to challenge and retaine the ſame to his owne uſe, as his owne proper goods for ever.

The penaltie of every Officer or other perſons, appointed to meaſure any ſuch horſe, either refuſing to doe it, or not truly meaſuring, is to pay for every time ſo refuſing forty ſhillings.

The one moietie to the King, the other to the party that will ſue for the ſame by bill, &c.

That

That the Forreſts, Chaſes, Commons and grounds ſhall be yearely driven at Michaelmas, or within 15. dayes after, by the Lords, owners, or officers thereof, and by the Conſtables, Bailies, Tethingmen *&c.* within whoſe limits, the Commons and grounds are, upon paine of forty ſhillings to be forfeited by every officer, at every time that the ſaid drift ſhall bee omitted, or not effectually done.

And if in any of the drifts there ſhall be found any Mare, Filly, Fole, or Gelding, that then ſhall be thought not able nor like to grow able to beare foles of reaſonable ſtature, nor to doe profitable labours, by the diſcretion of the more number of the ſaid drivers, then the ſame ſhall bee killed and buried, or otherwiſe beſtowed.

Stewards of Leets to enquire of all defaults and to certifie the preſentments unto the next quarter Seſſions, or to the *Cuſtos Rotul.* of the Countie, within 40 dayes after ſuch preſentment made, to be heard and determined by them, or elſe

The Steward to forfeit 40 ſhillings.

Horſes infect.

NOne ſhall have or put to paſture, any Horſe Gelding or Mare, infect with ſcab or mange into or upon any Commons or common fields, upon paine to forfeit to the Lord of the

Leet for every ſuch Horſe, *&c.* ſo infect, ten ſhillings.

This offence to bee inquired and preſented in the Leet as other common annoyances.

Nota, this Statute in the moſt and fortileſt ſhires of the Kingdome, doth limit 15 handfuls, and in the reſt but 14.

And by the 21. *Iac. ca.* 28. *in fine.* This Statute for the breed and ſtature of Horſes, and killing of Fillies *&c.* ſhall not extend to *Cornwall.*

The life and ſpirit of all law doth conſiſt and depend upon the due execution of it.

For which purpoſe there muſt be fit places and inſtruments of cuſtodie, and correction for offenders, and an upright care and integrity in officers, for performance of their duties.

Pillorie, *&c.*

EVery one who hath view of Frankpledge, or the precincts and liberties of a Leet, ought to have a Pillorie, and a Tumbrell, whereby to do juſtice, and every Tything ought to have a Stocks, as well for the keeping and ſafe detaining of offenders, untill they bee brought before Iuſtices of peace or other Magiſtrates, as alſo for the caſtigation of malefactors and diſordered perſons, as Drunkards and others, or elſe five pound forfeited.

The

The often cited ancient Law of 51. *Hen.* 3. doth injoyne an inquirie, if any Steward or Bayliffe for any reward, ſhall remit the judgement of the Pillorie or Tumbrell, and *ſi habeant in villa pillorium debita fortitudinis, &c.* a Pillorie of convenient ſtrength, as appertaineth to the libertie of their market, which they may uſe (if need be) without bodily perill, either of man or woman.

Conſtables, Ale-conners, &c.

IF any Conſtable, Aleconner, Bayliffe or any other officers within the libertie, doe not well and duely execute their offices, according to their ſeverall oathes and duties.

Purveyer.

IF any Purveyer ſhall make any purveyance for the Kings houſe of any thing to the value of forty ſhillings or under, and not make readie payment to the party, It ſhall be lawfull to the owners to retaine their goods, and to reſiſt ſuch Purveyers. 20 *H.* 6. *ca.* 8.

That every Conſtable, Tethiugman, or chief pledge of every Towne, being required, ſhall be aſſiſtant to ſuch owner or ſeller, upon paine to yeeld unto the party grieved the value of the things and double dammages 20. *Hen.* 6. *ca.* 8.

Huy

Huy and Cry.

TO abate the power of Felons, it was commanded that Cryes ſhall be ſolemnly made in all Counties, Hundreds, markets, faires and other places of great reſort, and that immediately upon robberies and felonies committed, freſh ſuite be made, from Towne to Towne, and from Countrey to Countrey, according to the Statute of *Winton. 13. Edw. 1. ca. 1.*

In this ſervice the Conſtables and Tethingmen have ſpeciall intereſt, and their contempt or negligence here inquirable.

Outcries made without cauſe.

BVt if any Huy and Cry be levied, or any outcry made without any ground or cauſe, to the diſturbance of the Countrey, and the peace of the people, inquirable.

Watch and ward.

ALſo the Conſtables ought to ſee, that the peace be kept, and watch and ward obſerved from Aſſenſion day till Michaelmas, continually all night, from the Sun ſetting, till the Sun riſing, according to the number of the inhabitants of the towne 13 *Ed. 1. c. 4.*

And

And that ſearch be duely made every moneth for unlawfull games.

That the Statutes made againſt haunters of Alehouſes and Drunkards, bee duely put in execution.

If the Conſtables have beene remiſſe and delinquent in theſe or any other things, touching any part or branch of his oath and office, It is preſentable.

All Officers Defaults.

AND ſo all other Officers whatſoever, which owe any ſuite and ſervice to this ancient Court, as Tethingmen or chiefe pledges, Surveyers of highwayes, Searchers and Sealers of Leather and ſuch others, according to the Cuſtomes and Iuriſdictions of ſeverall Courts.

The profit of the King or Lord of the Leet.

CErtum Letæ. In moſt Leets there is a duety or common fine, called in ſome place *Certum Letæ*, payable to the Lord. The reaſon and Commencement of it is before declared. If that or any cuſtome, or duetie be withdrawn, it is preſentable.

Mort-

Mortmaine.

7 Ed. 1. TO preſerve the ſervices, due of the Fees and tenures of Lands, which at the beginning were provided for the defence of the Realme, and to prevent the loſſe of the eſcheats of the ſame, It is ordained, that no perſon, religious or other, ſhall preſume to buy or ſell any lands or Tenements, Or by colour of any gift, or terme, or by reaſon of any other title whatſoever, or by any craft or engin appropre to himſelfe any lands or Tenements, whereby it may in any wiſe come into Mortmaine, If any doe offend it ſhall be lawfull to the King, and other chiefe Lords of the fee, immediate, to enter into the Land ſo aliened, within a yeare, from the time of ſuch alienation, and to hold it in fee and as inheritance, and if the chiefe Lord immediate be negligent, then the next chiefe Lord may enter within halfe a yeare after, *&c.*

Treaſure Trove.

IF there bee any Treaſur-trove, *viz.* treaſure put into the earth, and no man knowes who hath hidden it, it belongs either to the King or the Lord, according to the ancient rule of the Law.

Theſaurus inventus competit Domino Regi, et non Domino libertatis, niſi per verba ſpecialia in facto

facto libertatis contenta, vel per præſcriptionem, antiquitus fuit inventoris, de jure naturali, nunc de jure gentium efficitur Domini Regis.

Eſtreyes.

ALL Eſtreyes are here inquirable, that is, If there be any Horſes, Piggs, Hogs, Cattell or Swans, which have come within the Lordſhip, and beene there a yeare and a day, and not claimed, the Lord may have them by preſcription.

But ſuch beaſt ought firſt to be impounded, in an open pound, proclaimed in three Market townes next adjoyning, and then if none claime them, they ſhall be ſeiſed, and ought to bee put into ſome ſeverall land, and not into any covert or wood, where the owner cannot finde them.

For if they be in covert, the propertie is not altered, though they be there a yeare and a day.

Wayſes.

Catalla Waviata, when a theefe upon huy and cry, and purſuite after him, or elſe for eaſe of himſelfe without huy and cry, doth wave or derelinquiſh (therefore called by the *Civilians*, *bona derelicta*) the goodsfeloniouſly ſtolne by him, or any part thereof, and flyeth away, the King or the Lord is to have it, unleſſe the owner of

them doe make freſh ſuite after the Felon to attaint him for thoſe goods, which if he doth, hee ſhall have his goods againe, notwithſtanding the wayving and ſeizing.

But note if Goods be ſtolne and wayved, yet the owner may reſciſe them 20 yeares after, if they were not formerly ſeiſed by an officer of the King or the Lord of the liberty.

Fugam fecit.

IF any upon Indictment of murder before the Coroner be found *quod fugam fecit*, or if any be indicted of Felonie and acquitted, and found that he fled, he forfeits his goods to the King, and the Lord may claime them by Charter, but not by preſcription.

The old law, *Si quis poſt fugam redierit & innocentiam ſuam purgaverit, nihilominus facultates ſuæ apud fiſcum remanebunt.*

Exigent.

IF Exigent bee awarded againſt one Indicted in Felony, he forfeiteth his goods, though he be after acquitted of the Felonie, the King ſhall have his goods, and the Lord by Charter, but not preſcripion.

Out-

Outlawes.

ALL perſons outlawed in treſpaſſe, debt, or other perſonall actions, doe forfeit their goods to the King, and the Lord may have them by Charter.

Cleri Convicti.

ALL Clerks convict, men that have the benefit of their Clergie, and doe undergo the burning in the hand (called by the common law Cauterization) doe forfeit their goods notwithſtanding.

By-Lawes.

ANy By-lawes for the common weale may be made in a Leet, and are good and will lye againſt thoſe that do not conſent, as to make Cawſeyes, Highwayes, Bridges, and ſuch like, 44 *Ed.* 3. *fo.* 19. But a By-law to repair a Church, binds none but ſuch as do aſſent, *vid. Co.* 5 *f.* 63.

A Leet may make by-lawes, the Lord by preſcription may diſtreyne for the Amerciaments, and ſell the diſtreſſe: For the King may ſo doe, and the Leet is the Kings, although the Lord hath the profits. *Brooke Leet* 34. *Preſcription* 40.

The Statute for view of *Franck-pledge* made the eighteene yeere of King *Edward* the Second.

First, you shall say unto us by the oath that you have made, if all the Iurors that owe suite to this Court be come, and which not.

And if all the chiefe pledges or their dosens bee come, as they ought to come, and which not.

And if all the dosens be in the assize of our Lord the King, and which not, and who received them.

And if there be any of the Kings villaines fugative dwelling otherwhere than in the Kings demeanes, and of such as be within the Kings demeans, and have not abiden a yeare and a day.

And if there be any of the Lords villaines in Frankpledge, otherwhere than in this Court.

Of customes and services due to this Court withdrawn, how and by whom, and in what Baylifes time.

Of Purprestures made in Lands and Waters to annoyance.

Of Walles, Houses, Dikes, and Hedges, set up, or beaten downe to annoyance.

Of Bounds withdrawne and taken away.

Of

Of Wayes, and Paths opened or ſtopped.

Of Waters turned or ſtopped, or brought from their right courſe.

Of breakers of Houſes, and of their receivers.

Of Petie Larcens, as of Geeſe, Hens, or Sheafes.

Of Theeves that ſteale cloathes, or of Theeves that doe pilfer cloathes through windows and walls.

Of ſuch as goe on meſſage for theeves.

Of Cryes levied, and not purſued.

Of Bloodſhed, and of frayes made.

Of eſcapes of Theeves or Felons.

Of perſons outlawed returned, not having the Kings warrant.

Of Women raviſhed not preſented before the Coroners.

Of clippers and forgers of Money.

Of Treaſure found.

Of the Aſsize of Bread and Ale broken.

Of falſe meaſures, and of Buſhels, Gallons, Yards and Ells.

Of falſe Ballances and Weights.

Of ſuch as have double meaſure, and buy by the great, and ſell by the leſſe.

Of ſuch as continually haunt Tavernes, and no man knoweth whereon they doe live.

Of ſuch as ſleepe by day and watch by night, and fare well, and have nothing.

Of Cloth-ſellers and Curriers of Leather, dwelling out of Merchant townes.

Of ſuch as take Church or Churchyard, and after depart without doing that which belongeth thereunto.

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Of ſuch as take Church or Churchyard, and after depart without doing that which belongeth thereunto.

Of per-

Of persons imprisoned, and after let goe without maineprise.

Of such as take Doves in Winter by doorefals, or engins.

And of all these things you shall doe us to wit, by the oath that you have taken.

A note of the Statutes which are repealed, altered, or expired, since the time wherein M. *Kitchin* wrote, which I thought fit to set down, in regard many of them (I have observed) are frequently given in charge till this time.

The Statute of Cordweyners, 5 Eliz. ca. 8.
Repealed 1 Iacob. 22.

The Statute of Crow-nets for the destruction of Crowes, Rookes, and Choughes, 24 Hen. 8. 10.
Expired 8 Eliz. 15.

The Statute of Hats and Caps, 13 Eliz. ca. 19.
Expired 39 Eliz. 18.

The Statute against Riots, 1 Ma. ca. 12. continued 1 Eliz. 16. during the Queens life, untill the end of the next Parliament following.

Expired, yet Riots are inquirable as an offence at the Common Law.

The Statute of Wynes, 7 Ed. 6. ca. 5.
Repealed in part 1 Iac. 25. as is before declared.

The Statute touching Horsbread, 31 H. 8. 41.
Repealed by 22 Iac. Reg. 21.

The Statute of Apparell made 24. H. 8. ca. 13.
Repealed 1 Iac. 25.

The

The Oath of a Conſtable ſet forth by M. Kitchen *with the additions mentioned in the Statute of* 21 Ja. *which oath containes a ſhort Epitome of the dutie and office of Conſtables.*

YOu ſhall ſweare, that you ſhall well and truly ſerve our Soveraigne Lord the King, in the office of Conſtable for this yeare now to come, you ſhall ſee that his Majeſties peace be well and truly kept according to your power, and you ſhall arreſt all thoſe whom you ſhall find committing riots, debates, or affrayes, to the breach of the peace, you ſhall endeavour your ſelf according to your knowledge that the Statute of Winton. For watch, huy and cry, and the Statutes made for the puniſhment of ſturdy Beggers, Vagabonds, Rogues, and other idle perſons comming within your libertie, be duely put in execution, and that the offenders be duely puniſhed, you ſhall alſo (upon complaint made unto you) apprehend all Barrettors, and Riotous perſons, and all Felons, and if any of them doe make reſiſtance with force and multitude of Malefactors, you ſhall make outcrie and purſue them untill they be taken. And you ſhall looke and ſearch after ſuch perſons as uſe unlawfull games, and you ſhall have regard unto the maintenance of Artillerie. And you ſhall well and truly execute all ſuch proces and precepts as ſhall be directed unto you from his Majeſties

jeſties Iuſtices of peace of the Countie or any his Highneſſe Iudges, Iuſtices or Officers whatſoever, and you ſhall well and truly preſent all bloodſheds, outcries, affraies and reſcues happening or committed within your libertie; you ſhall alſo preſent all offenders and offences againſt the Statute made in the fourth year of our late Soveraigne Lord King *Iames*, intituled, an Act to repreſſe the odious and lothſome ſin of drunkenneſſe; and alſo againſt the Statute in the firſt Seſſion of Parliament in the firſt yeare of his late Majeſties raigne, intituled, an Act to reſtraine the inordinate haunting and tipling in Innes and Alehouſes, and other victualling houſes with the alterations and additions contained in the ſaid Act of the fourth yeare, according to the alterations and additions of the Statute, made in the 21. yeare of his ſaid late Majeſties raigne, intituled, an Act for the better repreſſing of drunkenneſſe, and reſtraining the inordinate haunting of Inns and Alehouſes, and other victualling houſes; And laſtly, you ſhall well and truly doe and execute all thoſe and ſuch other things as are incident and doe belong unto your office of Conſtable for this yeare now to come. So help you God.

FINIS.